



ADMINISTRATION AND  
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

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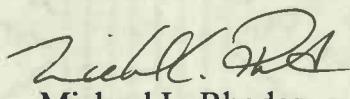
MAR 19 2010

MEMORANDUM FOR DEPARTMENT OF JUSTICE  
(ATTN: OFFICE OF INFORMATION POLICY)

SUBJECT: 2010 Department of Defense Chief Freedom of Information Act Officer Report

Please find attached the 2010 Department of Defense (DoD) Chief Freedom of Information Act (FOIA) Officer Report. This report is comprised of an Executive Summary and eighteen individual DoD Component reports. One of these reports is a compiled report that includes information for the ten Combatant Commands.

Please direct questions regarding this report to Mr. Jim Hogan. He can be reached at (703) 696-4689 or [james.hogan@whs.mil](mailto:james.hogan@whs.mil).



Michael L. Rhodes  
Acting Director

Attachment:

As stated



| <b>Report Documentation Page</b>  |                                    |   | <i>Form Approved<br/>OMB No. 0704-0188</i>                |                                   |
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| <p>Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p> |                                    |   |   |                                   |
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2010 Department of Defense Chief Freedom of Information Act (FOIA)  
Officer's Report to the Department of Justice

Executive Summary

Consistent with the ideals of transparency and openness as expressed by the President in his two January 21, 2009, memoranda, the Department of Defense has emphasized that a presumption of openness must be followed in all decisions involving release of documents under the FOIA. Additionally, we continue to seek new ways to proactively release DoD information so that the public is fully informed of our operations.

The DoD Components have used a variety of methods to ensure the presumption of openness is applied when decisions are made during the FOIA process. As seen in the attached report, DoD Components briefed senior leadership on the President's two memoranda, and in turn, leadership transmitted subordinate memoranda expressing support for the presumption of openness.

A primary method of informing DoD Component personnel involved in the FOIA process about the importance of the presumption of openness is through training in a number of venues and forums. For example, the Department of the Army provided FOIA training to over 500 personnel, with special emphasis on openness and how to provide this presumption directly to information that qualifies for discretionary release. The FOIA Officers for the Department of Navy and the U.S. Marine Corps traveled to several Navy installations to conduct FOIA training. The Defense Freedom of Information Policy Office conducted three seminars on openness for attorneys in the Department of Defense; at the annual General Counsel Conferences for both the Department of the Navy and the DoD Education Activity, and at the quarterly Defense Senior Legal Advisors Conference for the Staff Judge Advocates of the Combatant Commands.

As an indication of the extent to which the Department of Defense has incorporated the presumption of openness, the Department of Justice asked that this report compare the number of requests where records were released in whole or in part for the past two fiscal years. The numbers for the individual DoD Components are provided within. The following chart indicates these numbers for the entire Department of Defense.<sup>1</sup>

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<sup>1</sup> Statistical references within this Executive Summary are from the DoD FOI Annual Reports.

| Year             | Released in Full | Released in Part |
|------------------|------------------|------------------|
| Fiscal Year 2008 | 28,451           | 14,901           |
| Fiscal Year 2009 | 26,330           | 16,273           |
| Percent Change   | -7%              | +9%              |

It would appear this chart indicates that the acceptance of the presumption of openness by the Department of Defense is mixed at best. However, these numbers do not accurately reflect the extent to which the Department of Defense has embraced openness. A more accurate indicator of openness is the number of times the exemptions subject to discretionary release, primarily Exemptions 2 and 5, are applied. A decrease in these numbers indicates that the Department of Defense is committed to creating an environment of openness. The following chart details the application of Exemptions 2 and 5 within the Department of Defense. This chart shows that the Department of Defense applied Exemptions 2 and 5 less frequently in fiscal year 2009 than in fiscal year 2008. This implies that we are making more discretionary releases. As seen in many of the attached DoD Component inputs, FOIA officers and appellate authorities require a clear demonstration of foreseeable harm by the release of information that falls within these two exemptions before it is denied under the FOIA.

| Year             | Exemption 2 | Exemption 5 |
|------------------|-------------|-------------|
| Fiscal Year 2008 | 2,664       | 2,064       |
| Fiscal Year 2009 | 2,592       | 1,888       |
| Percent Change   | -3%         | -8.5%       |

The enclosed DoD Component reports detail a number of different initiatives for implementing effective systems for responding to FOIA requests. Purchasing and implementing an enhanced FOIA tracking tool that links all Air Force FOIA Offices within the Department of the Air Force is one example of the increased use of information technology in establishing better systems. For ten years, we have recognized the advantages of electronic redaction software, and encouraged DoD Components to make it a priority to purchase. In September, 2006, each DoD FOIA Requester Service Center was required to have an internet website that included an email

address or other capability for submitting FOIA requests electronically. A significant advancement of using technology for the processing of FOIA requests was an initiative started by a FOIA officer in the Department of the Air Force who wanted to reduce a major challenge to timely FOIA processing experienced by all government agencies - the process of transferring documents to other agencies or components for review. Traditionally, this transfer process is accomplished by using the U.S. Postal System. The disadvantages to using the mail are cost, time, and lack of accountability. If documents are classified, then additional security precautions, to include courier service, further added to the processing and handling time and further contributed to FOIA backlogs. Even emailing the documents has drawbacks since many agencies have limits on the size and type of attachments that can be emailed. Therefore, this FOIA officer developed a FOIA document sharing process called the Enterprise Referral Process (ERP), which eliminates the disadvantages mentioned above and uses an existing government-owned and maintained document sharing platform on the internet known as IntelDocs. Because ERP is available on unclassified and classified internet systems and does not have the limitations of email, we now are able to electronically transfer very large documents almost instantaneously with a guarantee that only the intended recipients receive and access the documents. Those DoD Components that have geographically separated offices are using ERP and finding that it is reducing the processing time for FOIA cases and the need for using resources for the transfer of these documents. In December, 2009, the Department of Defense invited other agencies to a demonstration of ERP. We are now following up with these agencies to use ERP for cross-agency transfers.

Training is instrumental to ensuring the Department of Defense has an effective system for responding to FOIA requests, to include reducing backlogs and improving timeliness. To meet these goals, over 1,000 DoD personnel attend training annually conducted by the Department of Justice, the Defense Freedom of Information Policy Office, the American Society of Access Professionals, and individual DoD Components.

The Department of Defense has been engaged in working in the "New Media" and making proactive disclosures. The Department of Defense has over 500 individual websites, 50 DoD Live blogs, and an estimated 500 Department of Defense affiliated presences on 11 social networking services. Many senior leaders, including the Chairman of the Joint Chiefs of Staff ([twitter.com/THEJOINTSTAFF](http://twitter.com/THEJOINTSTAFF)), and the Commander of the U.S. Southern Command ([www.southcom.mil/AppsSC/Blog.php](http://www.southcom.mil/AppsSC/Blog.php)) blog and use Twitter on a regular basis. More details on these initiatives to use social media to proactively inform the public about the operations and activities of the Department of Defense are within the attached inputs for the Office of the Secretary of Defense/Joint Staff (OSD/JS) and other DoD Components.

Some excellent examples of the DoD Components using their websites to proactively disclose information to the public include the U.S. Africa Command

([www.africom.mil](http://www.africom.mil)), the Defense Commissary Agency ([www.commissaries.com](http://www.commissaries.com)), and the Defense Technical Information Center ([www.dtic.mil](http://www.dtic.mil)).

The Open Government Directive requires agencies to "create an Open Government Webpage...to serve as the gateway for agency activities related to the Open Government Directive and shall maintain and update that webpage in a timely fashion." To comply with this Directive, the Department of Defense created a robust open government website.<sup>2</sup> This website functions as an entry point for the public to all of the blogs and presences on social networking services previously mentioned. Additionally, this website serves as the primary platform for future DoD proactive disclosures. Through this website, members of the public are providing useful suggestions on what type of information they recommend DoD proactively disclose.

For fiscal year 2009, the DoD FOIA backlog decreased by 250 cases, from 11,746 to 11,496. Of the 32 DoD FOIA Components, at the end of fiscal year 2009 two reported no backlogs, another eleven reported backlogs of less than twenty, and ten reported backlogs greater than 100. Overall, 13 Components reported a reduction in their backlogs and 16 reported increases. The Component with the largest FOIA backlog increase was the Department of the Army, whose backlog increased from 2,950 to 3,542, or 20%. The Components with the most significant backlog decreases were the U.S. Central Command (218 to 198, 9.5%), the Defense Logistics Agency (107 to 65, 39%), the Department of the Navy (1,402 to 1,139, 19%), OSD/JS(2293 to 1708, 25%), the U.S. Special Operations Command (240 to 170, 29%), and the U.S. Southern Command (97 to 81, 16%). At the end of fiscal year 2008, the oldest open FOIA request in the Department of Defense was received on December 1, 1992, and the oldest appeal was received on October 26, 1995. For fiscal year 2009, the oldest request was received on December 1, 1992, and the oldest appeal was received on January 23, 1997.

A number of factors contribute to the DoD FOIA backlog, including the size and complexity of the Department of Defense, requesters asking for sensitive and classified information, including information concerning ongoing wartime operations, and resourcing the Department of Defense FOIA program. In response to Executive Order 13392, in the spring of 2006 the Department of Defense undertook a thorough review of its FOIA program, with the primary source of information being an unprecedented survey of over 600 DoD FOIA professionals. The data gathered from this survey resulted in several initiatives that have contributed to reducing the DoD FOIA backlog. Key to these initiatives was increased funding for the DoD Components that had the largest backlogs. A primary example of how this funding was successful in reducing a large backlog is the OSD/JS FOIA program. From the beginning of fiscal year 2009 to March 1, 2010, the backlog for this program decreased from 2,293 to 1,582, a reduction of 31%. Other DoD Components that have increased funding and staffing for their FOIA programs include

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<sup>2</sup> <http://www.defense.gov/open/>

the Department of the Air Force, Defense Intelligence Agency, the DoD Inspector General, the National Geospatial-Intelligence Agency, and the National Security Agency.

Additionally, several DoD Components underwent a Lean Six Sigma process review of their FOIA programs to identify and eliminate the major problems in their processes and to find innovative ways to improve the processes. These Components include the Department of the Navy, the OSD/JS, and the Defense Intelligence Agency.

Because of the initiatives the Department of Defense undertook since the issuance of Executive Order 13392, some Components have been very successful with their backlog reduction efforts. However, we are not successfully reducing the FOIA backlog across the entire Department of Defense. As the next step to take in our continuing efforts to reduce FOIA backlogs, we will engage the FOIA Public Liaisons of those Components with the most significant backlogs with the intention of having them create specific backlog reduction plans.

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Office of the Secretary  
of Defense/Joint Staff  
(OSD/JS)

Office of Freedom of  
Information (OFOI)

OFFICE OF FREEDOM OF INFORMATION (OFOI), FREEDOM OF INFORMATION DIVISION (FOID), OFFICE OF THE SECRETARY OF DEFENSE

I. Steps Taken to Apply the Presumption of Openness

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decisions involving the FOIA.

-OFOI includes an information sheet with each tasking to OSD/JS components advising them of the content of the Attorney General's March 19, 2009 memorandum emphasizing the presumption of openness as it applies to FOIA requests, focusing particularly on the use of discretionary releases. When a position is received by the OFOI staff, if the position does not comply with the President's presumption of openness, then it is sent back to the initial reviewer with the instructions that the review must comply with this presumption. Additionally, the appellate authority for OSD/JS FOIA denials has mandated that all reviews of initially denied information subject to discretionary disclosure include a statement of the foreseeable harm, or the information will be released upon appeal. A statement of the foreseeable harm is then provided by the appellate authority to the requester, if applicable.

2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

Increase of 65 full grants between FY08 and FY09:

--Full grants in FY08: 309  
--Full grants in FY09: 374.

Increase of 84 partial grants between FY08 and FY09:

--Partial grants in FY08: 434  
--Partial grants in FY09: 518.

II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests

-OFOI has implemented an electronic request in-box for 6 years. OFOI receives other requests by regular mail or FAX.

-OFOI answers each request with an e-mail or letter that informs the requestor their request has been registered and assigned a case number that they can use to track the cases' status.

-OFOI uses a database (FOIAEXPRESS) to register, assign an action officer, task for coordination, track status, enter co-ordination results and redact, if necessary. The database in essence manages the request from opening to closing.

-OFOI intends to improve service to requestors by implementing the PAL component of FOIAEXPRESS. This software will allow registered requestors to seek updates to their case status and to receive responses to their requests through a service portal into the FOIAEXPRESS Data Base after automatic notification that the response has been posted. The PAL link also facilitates posting of released records to the OSD/Joint Staff Reading Room.

### III. Steps Taken to Increase Proactive Disclosures

The Department of Defense (DoD) currently has over 500 Web sites and has been working in the "New Media" environment since 2006. In 2007 we started the DoDLive Bloggers Roundtable which, at its peak, was doing roundtable style telephone interviews between bloggers and DoD and Service personnel around the world on the average of one to two interviews per day. Today, we still provide two to three interview opportunities per week. We facilitated the Military Health Systems programs of Dot Mil Docs podcasts and the development of the Assistant Secretary of Defense for Health Affairs blog. Both have been extremely successful and important in getting health information to military service members and their families and engaging the medical community-at-large. We also instituted the Public Web team to help develop the DoD Web presence into a more comprehensible and easily navigated system incorporating new and social media alongside our traditional publications.

There are currently over 50 DoD Live blogs that engage the public on an array of topics by all the services and many DoD offices. There are an estimated 500 DoD affiliated presences on eleven social networking services: Facebook, YouTube, Flickr, Twitter, MySpace, LinkedIN, Vimeo, iReport, NowPublic, Delicious, and Blog Talk Radio. A list of these presences is available at <http://www.defense.gov/RegisteredSites/SocialMediaSites.aspx>. We have been told by Facebook that the DoD has more affiliated pages on Facebook than any other organization.

Many of our military leaders are blogging, Twittering, and podcasting. Adm. Mullen, Chairman of the Joint Chiefs of Staff (CJCS) has over 15,000 followers on Twitter and one of the most downloaded podcasts on the Pentagon Channel iTunes site. Admiral Stavridis has been blogging for quite a few years, using his blog as a trip journal and to exercise his leadership in his areas of responsibility. Maj. Gen. Michael Oates, while commander of the Multinational Division Center in Iraq, started the Task Force Mountain blog to connect with his troops and their families back at Fort Drum. General Oates stated in an interview, "It is not in fact going around the chain of command; it allows us to connect to the chain of command in ways we have not been able to experience before."

The policy of the Department of Defense, spelled out in the Principles of Information, has always been "maximum disclosure, minimum delay." The democratization of publishing, proliferation of social networking services, blog and micro-blog sites have caused the DoD to evaluate our policies and adjust accordingly. This policy

discussion is currently on-going and plans are being made to provide training to our troops and their family members on operating in this communication field of maneuver. Training will be focusing on the legal aspects of this publishing environment, the operations security implications, protecting the physical network infrastructure, information assurance, and personally identifiable information and personal security. DoD is also developing a Social Media Hub, <http://socialmedia.defense.gov/> to help facilitate these training aspects and to connect troops, families, leadership, and the public in the social media sphere.

#### IV. Steps Taken to Greater Utilize Technology

1. Does your Component currently receive requests electronically? YES.
2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically? NA.
3. Does your Component track requests electronically? YES, via FOIAEXPRESS.
4. If not, what are the current impediments to your Component utilizing a system to track requests electronically? NA.
5. Does your Component use technology to process requests? YES, using FOIAEXPRESS.
6. If not, what are the current impediments to your Component utilizing a system to process requests? NA.
7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report? YES, AUTOMATED REPORT GENERATED BY FOIXPRESS.
8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report? NA.

#### V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.

Since 30 September, 2009, OFOI has reduced its backlog from 1915 cases to 1793, a reduction of 122 cases or 6.3%. The OFOI backlog has decreased 31% (from 2584 cases to 1793) over the past 18 months.

2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it. NA.

3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.

-Expanded contract from 9 to 17 action officers in April, 2008. OFOI will convert 7 of those contract positions to FTE's in April, 2010.

-OFOI relies to maximum amount possible on electronic tasking or responsive records requiring review. Only exception is for TOP SECRET records, which exceed security capability of electronic systems.

-OFOI adopted use of the Electronic Referral System of INTELDOCS to facilitate review exchange of large classified documents between key OSD/JS components.

-As new records management procedures occur within OSD, OFOI will exploit improved storage and search capabilities to hasten records searches and reduce the burden on components and subject matter experts to primarily reviewing the responsive records.

-Increased training to our FOIA points of contact and Subject Matter Experts.

-OFOI has developed a Quarterly report to OSD/JS and other DOD components to apprise them of what cases sent to them for coordination remain outstanding.

# Department of the Army

**Department of the Army  
Chief FOIA Officers Report**

**I. Steps Taken to Apply the Presumption of Openness**

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.
  - The Army instituted a dynamic education and training agenda to ensure the principles of openness were provided to the entire information release community and applied during release determination. Copies of the new Administration's FOIA Memorandum and the AG's FOIA Guidelines have been disseminated to all Army FOIA personnel numerous times during FY09 along with guidance and interpretation from the Army FOIA Office. To further indicate the importance of implementing the Administration's policies, two memoranda were issued by the Army senior leadership. These memoranda reiterated the overall importance of compliance with the FOIA and principles of disclosure, as well as responding in a timely, accurate, and efficient manner. In addition, further clarification was provided to Army activities on a case-by-case basis. Based upon feedback and questions from numerous Army FOIA Offices it is apparent that the directions included in these references are being implemented wide-spread throughout the Army as many of these issues pertain to the discretionary release of records under a variety of scenarios.
  - The Army also made this guidance a focal point during its Annual FOIA, Privacy and Records Management Conference. During this three day event training was given to approximately 520 individuals from 42 Army Organizations, consisting of HQDA Staff Principal offices, Major Commands, Army Service Component Commands, Direct Reporting Units, four DOD Component offices along with the U.S. Air Force, U.S. Navy, U.S. Marine Corps, Army National Guard and Reserve Components in a three day conference that discussed the new Openness guidelines, illustrating FOIA applications, legal and procedural considerations. Guest speakers from the DOJ Office of Information Policy and NARA Office of Governmental Services as well as the Department of Defense provided detailed instructions in complying with the President's FOIA Memorandum and the AG's FOIA Guidelines. Many of the participants had less than two years of FOIA experience and benefited from this training.

## Department of the Army Chief FOIA Officers Report

- The Commanding General of the Army Corps of Engineers issued a separate memorandum providing guidance regarding the implementation of Presidential and Congressional changes to the FOIA to all subordinate commanders, directors and office chiefs to more thoroughly review requests, to communicate more promptly with the public, to provide additional reports and to proactively post information to their websites. This memorandum also expresses commitment to fulfilling the administration's request that all employees are responsible for FOIA and directs that all Corps employees place increased emphasis on assisting FOIA officers in finding documents to respond to requests. Further, commanders were directed to speak with their counsels to gain a more complete understanding of the FOIA program in their commands, the new requirements and review their programs and ensure that adequate resources are devoted to support the revised FOIA programs.

2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

- **From FY08 to FY09, there has been a 1% increase in the number of processed cases where responsive records were released in full or in part.**

II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests

- The Army has developed and implemented an enterprise level solution, the Freedom of Information and Privacy Act Case Tracking System (FACTS) to track and ensure responses are issued to FOIA requests received throughout the Department. Multiple FACTS training sessions were conducted during the Annual conference. These sessions highlighted the improved tracking and monitoring capabilities. The Army FOIA Office periodically conducts analysis of FACTS data to ensure requests are processed and responded to in a timely and appropriate manner. The Army FOIA Office continues to work with system developers to enhance FACTS capabilities to more efficiently and consistently process requests; to monitor Army wide compliance; and to provide the public the status of their requests in a more time efficient manner.

## **Department of the Army Chief FOIA Officers Report**

### **III. Steps Taken to Increase Proactive Disclosures**

- **Army-wide instruction has been disseminated to more effectively process requests and to be proactive in posting material thought to be of public interest (regardless of whether a FOIA request has been received) to the Electronic Reading Room. Guidance issued requires communication, cooperation and a collaborative effort from IT Professionals, Legal Offices, Public Affairs Offices, Contracting Offices and /or any offices that hold records that are subject to request under FOIA.**
- **FOIA Officers are instructed to review and proactively forward information of public interest for posting into the Army Electronic Reading Room.**
- **Through an active Public Affairs program, a wide variety of information on America's Army is provided to the public. Information initiatives include traditional active media engagement and news releases, and the Army.mil website, featuring print and video communications with RSS syndication and podcasts. Additionally, thousands of images are available on U.S. Army Flickr. Army information is also readily available to the public via social media such as Twitter and Facebook, and also through the "Army Live" blog. There is also a U.S. Army iPhone application available on the App Store.**

### **IV. Steps Taken to Greater Utilize Technology**

1. Does your Component currently receive requests electronically? **YES. All Army FOIA Office and Service Center websites have email addresses posted online for the public to submit electronic FOIA requests. Army-wide policy guidance dictates that electronic FOIA requests are to be received and processed.**
2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically? **N/A**
3. Does your Component track requests electronically? **YES. As indicated above, the FACTS is the Army-wide tracking database for FOIA requests received.**
4. If not, what are the current impediments to your Component utilizing a system to track requests electronically? **N/A**
5. Does your Component use technology to process requests? **YES. As indicated above, the FACTS is an Army-wide system for recording the receipt and actions taken during processing to include the final outcome of the request.**

## Department of the Army Chief FOIA Officers Report

**In addition, some Army components have purchased licenses and software solutions to electronically redact records responsive to requests.**

6. If not, what are the current impediments to your Component utilizing a system to process requests? **N/A**
7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report? **YES. The FACTS has detailed reporting capabilities and compiles Army-wide required reporting data and also reports on an individual activity basis.**
8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report? **N/A**

### V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.

- **At the onset of FY09, ten Army activities had a significant backlog of FOIA requests. During the first quarters of FY09, five of those activities took the necessary steps and eliminated their backlogs. These steps ranged from creating new positions, hiring contractor support staff, and filling vacant positions to streamlining procedures to be more efficient.**
- **For example, the U.S. Army Criminal Investigation Command began FY09 with a backlog of several hundred FOIA requests. By coordinating with the Army FOIA Office for streamlining recommendations and by hiring contract support personnel and justifying the need and filling civilian vacancies in a timely manner, they were able to completely eliminate their backlog.**
- **Another success in backlog elimination is with the Assistant G-1 for Civilian Personnel Policy, which had a significant backlog of FOIA requests ranging back to 2003. They coordinated with the Army FOIA Office for assistance and recommendations. They ultimately realigned the FOIA office and functionality to a more efficient placement in their organization; hired temporary manpower and contractor support personnel and organized a task force to process the backlog cases and issue final responses.**

## **Department of the Army Chief FOIA Officers Report**

**The Army FOIA Office provided the necessary training and direction to the task force, which was comprised of five action officers, two attorneys and one contractor provided by the Army FOIA office. The training included basic FOIA requirements and details on how they specifically apply to personnel records. The training was geared toward streamlining the FOIA process in order to eliminate the backlog which was accomplished within two months.**

- **The Corp of Engineers was successful in eliminating many of their oldest backlog cases. The Corps leadership issued two memoranda regarding the importance of backlog reduction for all subordinate offices and directed commanders to apply additional resources as appropriate, continue to track and report delinquencies along with a detailed explanation of aged requests and a plan to close any aged requests over one year old.**
- **Although significant progress was made during FY09 in backlog reduction in specific areas, the Army experienced an increase of backlogged FOIA requests throughout the entire community, which is comprised of approximately 350 offices world-wide. Overall, the Army backlog increased from 2,950 at the end of FY08 to 3,542 at the end of FY09.**

If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.

- **The Army is actively determining the offices with backlog and analyzing the causes in order to recommend corrective actions. Preliminary analysis reveals some factors in the increase are due to lack of proper resources; increased complexity of requests and responsive records; and relatively new, inexperienced staff members who required training. Another factor that should be noted is during FY09, the Army increased the number of expedited requests that were granted by 10%. Requests are normally processed on a first in, first out basis unless expedited processing is granted; in which case the expedited request is processed first. Expedited processing takes precedence over the normal processing procedure. Focusing on the expedited requests could have detracted from the routine and complex requests which comprise the backlog. As personnel gain experience and knowledge, more efficient and timely processing can occur. The Army FOIA Office has conducted numerous training sessions both onsite individually by activity, as well as hosting an Army-wide conference wherein backlog reduction was a key theme. As the number of Army personnel with FOIA responsibilities has increased by 25 during FY09, and with more staffing expected this year, combined**

**Department of the Army  
Chief FOIA Officers Report**

**with our focus into specific backlog areas, it is anticipated that backlog will decrease during FY10.**

Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.

- **The Army FOIA office will continue to emphasize the importance of timely processing and responses to requests. We will continue to issue guidance at the leadership levels and assist FOIA officers throughout the Army with advising superiors of program requirements, causing heightened awareness and support of the FOIA programs. This should continue to result in additional resources and/or a review into procedures to ensure efficiency. Additional training, instructions and guidance will be provided as necessary to Army FOIA Offices to work closely with the requesters to negotiate in order to improve efficiency and timeliness of the responses.**

# Department of the Navy

Department of the Navy, Freedom of Information Act Report to the Attorney General

- I. Steps taken to apply the presumption of openness.
1. Steps taken by the Navy to ensure that the presumption of openness is applied to all decision involving the FOIA.
  - a. The DON FOIA Office, along with the USMC FOIA Office and DON Appellant Office distributed the President's Memorandum and Attorney General's Memorandum, throughout the FOIA community.
  - b. The DON FOIA Office also distributed the DoD guidance reminding the community to follow the President's direction and apply the presumption of disclosure to all decisions involving release of information under the FOIA.
  - c. DOJ FOIA guides (May 2009) were distributed throughout the FOIA community. In addition, the DOJ website for e-access to the guides was sent to the FOIA community.
  - d. The Head of the DON FOIA Office and USMC FOIA Office coordinated several training sessions throughout the Service to provide FOIA training. Training, including the first 'Navy-day' training following the American Association of Access Professionals Conference, addressed the President's and the Attorney Generals Memos and direction, and application of openness in the FOIA process. In addition, the JAG and OGC held conferences addressing the FOIA for staff throughout the Services and stressed the importance of FOIA as a release statute with emphasis on openness.
  - e. FOIA administrative appeals application of presumption of openness to all appeals. Examples: (1) Strict application of "reasonable segregability" to ensure that, even if an exemption applies, release of all material that is reasonably segregable is accomplished. (2) Recommitment to use of the balancing test in exemption 6 and 7(C) cases to ensure proper weighing of private and public interests. (3) Specific attention paid to all exemption 5 redactions and withholdings, ensuring that this exemption is not abused. IDAs required to articulate specific harm sought to be avoided when making discretionary withholdings.
2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

The Department of the Navy's FOIA annual report indicates:

2008 Annual Report - Full grant 4910, partial grant 3737  
2009 Annual Report - Full grant 5177, partial grant 3713

- II. Steps taken to ensure that the Navy has an effective system for responding to requests
  - a. The DON has issued guidance outlining the requirements to respond to requesters within the legal timeline. Following enactment of the Open Government Act of 2007, the Navy has reminded the FOIA community of the obligations to redirect FOIA requests within the 10-day timeframe and to provide requesters with updates regarding the status of the requests.
  - b. The DON has also been working to obtain a department-wide FOIA tracking system to allow for better communication and to streamline the FOIA process. A department-wide tracking system will also provide a means to work collaboratively throughout the community, providing consistent and uniform responses to the requesters.
- III. Steps taken to increase proactive disclosures
  - a. Components within the DON have ‘gotten ahead’ of the impending requests based on newsworthy events by posting information on websites and ensuring that information is updated as necessary.
  - b. The Public Affairs Office has been proactive in making newsworthy information available as events occur.
  - c. Websites are updated to provide more current information; the DON FOIA office is currently redesigning the homepage to provide additional information and quicklinks for public access to agency information.
  - d. Components with the DON, including the DON CIO, have blog accounts to discuss issues surrounding specific program area concerns and provide updated information to the staff and public through more ‘informal’ channels.
- IV. Steps taken to greater utilize technology
  - a. Does your Component currently receive requests electronically? YES
  - b. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically? N/A
  - c. Does your Component track requests electronically? YES. Currently, the DON FOIA office is testing the NAVSEA FOIA tracking system for department-wide viability. The NAVSEA FOIA tracking system is available for all FOIA staff to use while processing requests. The ability to track all requests in this one system allows for greater information-sharing and alleviates duplicate responses. To date, the NAVSEA FOIA

tracking system is a full-accredited system and has the capability for modification to accommodate changes necessary to enable department-wide usage and compliance with the DOJ FOIA requirements. If the tool is found to be a viable tool for the entire FOIA community and is accepted for department-wide usage, plans are to include a FOIA appeals module.

- d. If not, what are the current impediments to your Component utilizing a system to track requests electronically? N/A
- e. Does your Component use technology to process requests? Some of the DON FOIA staff use redaction software to process requests. FOIA staff have expressed funding constraints as to their reasons for not using redaction software to process documents.
- f. If not, what are the current impediments to your Component utilizing a system to process requests? Funding.
- g. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report? YES.

The Department's FOIA office, along with several components within the Department, used the NAVSEA FOIA tracking system to produce the annual report. Other components produced the annual report from information maintained on spreadsheets and databases. If the components are not using a tracking system to compile the FOIA annual report, they will use the DoD Reporting System for calculations for the FY10 report.

- h. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?

The Department is considering the costs associated with maintaining a department-wide tracking system and one that will produce an annual report.

## V. Steps taken to reduce backlogs and improve timeliness in responding to requests

- 1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.

The DON backlog, as indicated on the annual report, was reduced by 263 cases to a total of 1139. The annual report indicates the oldest pending requests are from 2000. Regarding appeals, the backlog has been reduced from 45 to 7.

2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.

The DON backlog for requests and appeals is decreasing. We continue to streamline the process of transferring requests to the appropriate offices. The use of the NAVSEA FOIA tracking system has enabled us to track requests more efficiently and also to check for duplicative requests with those offices who are also using the system. Training has been very valuable to the FOIA community, especially since staff turnover among the FOIA community is constant. The DON is planning to stand-up an internal FOIA website with helpful information to the community. We have plans to develop computer based training modules that will provide training to the staff as well as scheduled training conferences. The past year, we conducted a lean six sigma on the FOIA program to determine the areas for improvement. One area, the lack of a department-wide tracking system, which hinders collaboration and information-sharing, was addressed through the use of a tracking system. We expect through the continued training conferences, improvements in FOIA communication, and improvements to the program, i.e., internal website, training modules, we will continue to see a decrease in the backlog.

3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.

The Office of the General Counsel, with support from the Office of the Judge Advocate General, conducted a Lean Six Sigma project to improve the OGC FOIA administrative appeals process. This project brought together a select group of FOIA appeals practitioners from the OGC, HQ Marine Corps, and OJAG, to study and provide recommendations for improvements. One of the key aspects of this effort was the focus on timeliness. The working group examined each step of the appellate process, considered options for cutting or improving, and recommended a leaner process. The study concluded in summer 2009 and immediately produced results. Since the study, over 90% of all OGC FOIA appeals are resolved within 20 days of receipt by the appellate authority. The 10% that are not so resolved are the result of legal requirements to conduct sometimes time-consuming coordination on complex matters with, for example, submitters in Exemption 4 cases. In every such case, the appellant is advised of said legal requirements, the expected date of resolution, and his/her right to sue in federal court should the appellate authority fail to resolve the matter within the prescribed 20 days.

# Department of the Air Force

## Air Force FOIA Response to New DoD FOIA Report to the Attorney General, dated 3 Dec 2009

### I. Steps Taken to Apply the Presumption of Openness

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.

The Air Force's implementation of President Obama's FOIA policy has been provided through four different avenues: formal training; written guidance provided to the field; written legal opinions in response to FOIA/PA requests; and daily email/telephone discussions with Air Force personnel.

Since the implementation of President Obama's FOIA/Transparency policy, Air Force FOIA Policy, the Headquarter Air Force (HAF) FOIA, and the Air Force Judge Advocate General's Administrative Law Directorate (AF/JAA) have teamed together to revamp Air Force FOIA and Privacy Act (PA) training to emphasize the President's policy and its implications with respect to the release of records requested under the FOIA and PA, as well as absent a FOIA request. The training (which at the HAF occurs quarterly) provides a robust discussion - to include handouts of the President's memorandum and DOJ implementing guidelines - on the renewed emphasis on the presumption of disclosure and the "when in doubt, release" mantra incorporated into the President's memorandum. Renewed emphasis has also been placed on the President's policy of releasing records w/o first requiring a FOIA request, or otherwise on the Air Force's own initiative.

The Air Force has centralized and expanded the FOIA Reading Room website by posting high interest records that were not requested under FOIA and those records that were requested and released under FOIA regardless if they were only requested one time. The Air Force is currently working with Contracting Office to obtain redacted contract within 15 days after award and make document available on the e-Reading Room. The Air Force Chief Information Officer also put out memo to Air Force leaders, emphasizing the importance of FOIA, the President's FOIA memo and US Attorney General's FOIA guidelines and currently is working to request the Secretary of the Air Force to send out a reminder memo to all AF personnel, emphasizing exactly the same points at his level.

The Air Force has placed a renewed emphasis on formal, in person training, in part to spread the word on the President's policy and its implications. The Air Force FOIA Policy has greatly expanded its role at the American Society of Access Professionals (ASAP) yearly training conference, dedicating two full days in February to FOIA, Privacy, and Records Management Air Force specific issues for nearly 200 Air Force personnel were attended. Leading the training was a discussion of President Obama's FOIA policy and its effect on the release of Air Force records.

The Air Force personnel are made aware of FOIA training opportunities around the world provided by DoD, DOJ, specific MAJCOMs/FOAs/DRUs/Bases, as well as from AF FOIA Policy, AF/JAA and HAF FOIA.

AF/JAA will provide training to AFMC personnel this April at Wright Patterson AFB, Ohio. A large part of JAA's training will be dedicated to the application of President Obama's FOIA policy on the use of FOIA exemptions. The Air Force has also developed an Air Force FOIA/PA training program which rolled out at the ASAP National Training Conference for use by all FOIA managers in training Air Force personnel at their organizations. This program will provide one, universal, Air Force training message on the FOIA and PA, to include the President's FOIA and transparency policy.

Further, AF/JAA have published written guidance AF wide to legal and FOIA professionals about the impact and presumption of disclosure of President Obama's policy to FOIA and PA requests in general, and the application of specific FOIA exemptions under the policy in particular. One week after the President's policy was issued, AF/JAA published a memorandum on its impact to the use of FOIA exemptions, which largely tracked the formal Attorney General Guidelines issued government wide a few months later. Other memorandums include one providing an analysis of the President's

policy to each FOIA exemption. Training slides and written guidance are made available through the AF/JAA websites, dissemination through the AF/JA Online News Service, and posted on the AF FOIA Community of Practice website.

A discussion of the President's policy is also incorporated into all legal reviews, as applicable. For instance, a specific discussion of the President's policy is incorporated into legal reviews when an OPR proposes to withhold information under one of the FOIA "discretionary" exemptions, such as FOIA Exemption (b)(5). Renewed emphasis has been placed on releasing all recommendations/opinions/and analysis where it is not "reasonably foreseeable" that release of such information will cause a governmental harm that a discretionary FOIA exemption was designed to protect against.

Following as an example are excerpts from the first legal opinion provided by AF/JAA a few days after President Obama's memorandum was issued in January 2009:

"President Obama recently signed a memorandum changing course from the previous administration with respect to the release of government records requested under the FOIA. In pertinent part, the memorandum states: The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

The above policy most clearly applies to the application of FOIA Exemption 5, an exemption that allows an Agency--but does not require it--to withhold pre-decisional, deliberative information contained in government documents. The Inspector General (SAF/IGS) has consistently withheld pre-decisional, deliberative information from unsubstantiated reports of investigation and report's of investigation where, as here, the IO's analysis and recommendations were ultimately not accepted by the decision authority. With this background, we now turn to this case.

FOIA Exemption 5, 5 U.S.C. § 552 (b)(5), allows, but does not require, an Agency to exempt records that would be withheld under the Federal Rules of Civil Procedure in civil litigation under the deliberative process privilege. To qualify under this privilege, the record must be both deliberative in nature and "predecisional." This privilege is designed to protect the quality of Agency decisions in three ways: (1) to encourage open, frank discussions on matters of policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an Agency's action.

Generally, this privilege does not extend to factual portions of a document; however, factual portions still fall under Exemption 5 in two circumstances. The first circumstance is where the author has selected specific facts out of a larger group of facts in a deliberative manner, such as in preparing a summary of lengthy testimony. The second circumstance is where the factual information is so inextricably connected to the deliberative material that revealing the factual information is equivalent to revealing the Agency's deliberations. *Mapother v. Dep't of Justice*, 3 F.3d 1533 (D.C. Cir. 1993); *Montrose Chem. Corp. v. Train*, 491 F.2d 63 (D.C. Cir. 1974). On page 4, the IO listed some findings of fact and then separately set out the standards applicable to the investigation. These facts and standards are completely separate from the analysis that begins on page 5. In accordance with President Obama's policy and given that these facts are easily segregated from the analysis portion of the report, we recommend the information on page 4 and the information on page 5 prior to the "Analysis" section be released.

There is a reasonable basis, consistent with past SAF/IGS policy and FOIA Exemption 5, to completely redact the analysis section that begins on page 5 and ends on the top of page 18. However, because of President Obama's more open FOIA policy, and given that most of the analysis is filled with factual testimony that can be segregated from the IO's more personal opinions and analysis, SAF/IGS may want to consider releasing the testimony excerpts and only redacting the few paragraphs where the IO provides his "opinion commentary" about the testimony (his opinion commentary starts on page 17 with "What was said" and ends at the top of page 18, prior to the "Conclusion" section). If the requestor were to appeal the proposed IGS redactions on pages 5-18 it may be problematic the decision would be upheld given President Obama's more open FOIA policy and the facts and circumstances of this case.

In our opinion, the conclusion and summary sections on page 18 are releasable, although we expressed a different opinion prior to President Obama's executive order. But, because of President Obama's new FOIA policy, withholding this information merely because it is inconsistent with the final DoD decision is not warranted under the facts and circumstances of this case and the disclosure requirements of 10 U.S.C. § 1034."

The result of this robust Air Force "get-out-the word" and training effort has been an appreciable decrease at the HAF/Secretariat level of the use of discretionary exemptions, in particular (b)(5). For instance, the Inspector General has dramatically decreased the use of exemption (b)(5) to withhold recommendations and analysis provided by investigators in their Inspector General senior official reports of investigations.

2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

The number full grants decreased from 2530 (FY08) to 2502 (FY09). The number of partial grants increased from 1259 (FY08) to 1389 (FY09).

## **II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests**

The Air Force Senior leaders have taken a more active role in FOIA activities. They have been focused and involved in the Process Improvement Events in Mar 2008 and Sep 2009, implemented changes to improve the overall FOIA process, sent an electronic mail messages to Air Force senior leadership in both Headquarters Air Force and the Major Commands clarifying and reinforcing FOIA responsibilities and emphasizing the importance of FOIA, and emphasizing the direction given by the President in his January 21, 2009, FOIA Memorandum, and the Attorney General in his March 21, 2009, Memorandum For Heads of Executive Departments and Agencies concerning FOIA. They established FOIA performance and status reporting as a standing agenda item at senior level staff meetings. To reinforce this emphasis they mandated updates every six weeks to track the status of the FOIA program with specific attention given to the backlog status.

The Air Force purchased and implemented an enhanced FOIA tracking and process tool, called Air force eFOIA, with a public access link where requesters can submit and track their requests online, call eFOIA Public Access Link. All requests are now being tracked in eFOIA with the exception of classified responsive records.

Prior to 2008, many USAF FOIA offices processed only a few or no cases each year. The low process rate and volume resulted in a lack of practical experience in handling requests. Typically, the FOIA managers in such offices performed that function as an "additional duty" rather than as their primary job responsibility. At that time, the Air Force had a total of 252 FOIA Requester Service Centers (RSCs) including those within the Air National Guard. The participants at the Process Improvement Event recognized this structure contributed to communication and processing inefficiencies. This initiative sought to make maximum use of scarce personnel resources, eliminate

FOIA offices where appropriate and align work force resources consistent with the volume of FOIA requests. The Air Force has centralized FOIA processing, reducing the number of FOIA Requester Service Centers by over half from 252 to 119.

The Air Force has added additional personnel to provide Air Force level oversight on Air Force FOIA performance in the Air Force FOIA Policy Office to include tracking backlogs, updating the Air Force FOIA website and reading room, providing eFOIA training, responding to FOIA requests, interfacing with Air Force, DoD and other Federal Agencies, etc., and assigned personnel to assist the three organizations with the largest FOIA backlog.

The Air Force requires all FOIA managers to complete the annual training and eFOIA training to ensure everyone is up-to-date with the FOIA regulation requirement. It has included FOIA as part of the Air Force Total Force Awareness training, which require all Air Force personnel to be taken on an annual basis.

The Air Force established a goal of a 10% reduction in the Air Force backlog by the end of each fiscal year, the Air Force exceeded this goal, reducing the backlog by 25% in the past two years (FY08-FY09) and on track for further 10% reduction by the end of FY.

The Air Force generated monthly backlog reports to confirm all requests get a response in timely manner by all FOIA Requester Service Centers and discussed any issues that were encounter by the FOIA Requester Service Centers during biweekly teleconference with the MAJCOM, DRU, and FOA FOIA and Privacy Managers.

The Air Force runs daily reports in eFOIA to ensure all incoming requests received prompt response when received.

The Air Force FOIA homepage has a link for requesters to contact the Air Force Liaison office directly if unsatisfied with response or the overall customer service and the site also posts contact information to all FOIA Requester Service Center if requires to speak with someone via e-Mail or telephonic.

The Air Force has centralized into one single Air Force FOIA Reading Room website to ease the requester's time versus to navigate every FOIA Reading Room websites at each FOIA Requester Service Centers.

The Air Force hired two government contractors who are certified as web content managers to manage the Air Force FOIA website, keep the site up to date, and able to update the content of the website quickly and post Reading Room records faster and more recent records.

The Air Force revamped the Air Force Reading Room website to include advanced search features and the RSS feed.

### **III. Steps Taken to Increase Proactive Disclosures**

The Air Force has centralized into a single electronic Reading Room website that is user friendly and easy to navigate. As part of this initiative the Air Force expanded the FOIA Reading Room website by posting high interest records that were not requested under FOIA and those records that were requested and released under FOIA regardless if they were only requested one time.

The Air Force is currently working with Contracting Office to obtain redacted contract within 15 days after award and make document available on the e-Reading Room. The Air Force Chief Information Officer also put out memo to Air Force leaders, emphasizing the importance of FOIA, the President's FOIA memo and US Attorney General's FOIA guidelines and currently is working to request the

Secretary of the Air Force to send out a reminder memo to all Air Force personnel, emphasizing exactly the same points and increase proactive disclosures.

#### **IV. Steps Taken to Greater Utilize Technology**

1. Does your Component currently receive requests electronically?

Yes. The Air Force currently utilizes a web based application, called eFOIA Public Access Link (PAL) which gives the general public option of submitting and checking FOIA requests online. This is part of the Air Force eFOIA application.

2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically? (NA)

3. Does your Component track requests electronically?

Yes. The Air Force currently utilizes the Air Force eFOIA to track request electronically.

4. If not, what are the current impediments to your Component utilizing a system to track requests electronically? (NA)

5. Does your Component use technology to process requests?

Yes. The Air Force currently utilizes the Air Force eFOIA application to process requests, to include assigning case number, tracking all responses, sending and receiving correspondence, generating various reports to include backlog and annual report, redacting, and delivering records to FOIA requesters via e-Mail or posting online for requester to download.

The Air Force utilizes an Enterprise Referral Process (ERP) tool call IntelDocs, which allows the Air Force to post records electronically for consultation or referral records between different components including non DoD agencies vs mail records out; and also utilizes the Air Force Community of Practice (COP) to share documents electronically with various internal Air Force Offices for reviewing purposes.

6. If not, what are the current impediments to your Component utilizing a system to process requests? (NA)

7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report?

Yes. The Air Force currently utilizes the Air Force eFOIA to prepare the Air Force's input to the DoD Annual FOIA report.

8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report? (NA)

#### **V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.

In FY09, the Air Force backlog was decreased by 8%, on track to further reduce 10% backlog by the end of FY. The number of appeals was increased by 59% in FY09. Note, this number is not correct since the old FOIA tracking system has limited capabilities, it counting twice if an appeal was

transferred from one FOIA Requester Service Center to the Air Force FOIA Appellate Authority. In addition, the implementation to the new eFOIA was took place in the middle of the fiscal year, 30 Mar 2009, which has included some of the old data from the old tracking system.

2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.

The Air Force backlog has been reducing. It was reduced by 17% in FY08 and continued to decrease by 8% in FY09. The major contributors to the FOIA backlog are complex requests (classified, investigative and contract) which require multiple agency coordination and high volume. Other contributor to lower reduction in FY09 is due to the transition of the new Air Force eFOIA application. It has been a learning curve for the FOIA Managers to be familiar with the new application, processing, redacting, and staffing electronically has been a challenge for some of the FOIA Requester Service Centers.

The Air Force generated monthly backlog reports to confirm all requests get a response in timely manner by all FOIA Requester Service Centers and discussed any issues that were encounter by the FOIA Requester Service Centers during biweekly teleconference with the MAJCOM, DRU, and FOA FOIA and Privacy Managers. In addition, the Air Force runs daily reports in eFOIA to ensure all incoming requests received prompt response when received.

3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.

The Air Force generated monthly backlog reports to confirm all requests get a response in timely manner by all FOIA Requester Service Centers and discussed any issues or lesson learns that were encounter by the FOIA Requester Service Centers during biweekly teleconference with the MAJCOM, DRU, and FOA FOIA and Privacy Managers. In addition, the Air Force runs daily reports in eFOIA to ensure all incoming requests received prompt response when received.

With the new Air Force eFOIA, it allows the Air Force to respond, process, track, coordinate, redact, and deliver response to requesters quicker and in more efficient manner. It also has a transfer feature that allows requests to be forward between multiple FOIA offices and even the Appellate Authority office for final review quicker when appealed. Further, it allows the general public to submit and check on the status of his/her request without contacting agency directly and for FOIA Managers to send responsive documents to requester online via the eFOIA Public Access Link or e-Mail.

The Air Force utilizes an Enterprise Referral Process (ERP) tool call IntelDocs, which allows the Air Force to post records electronically for consultation or referral records between different components including non DoD agencies vs mail records out; and also utilizes the Air Force Community of Practice (COP) to share documents electronically with various internal Air Force Offices for reviewing purposes.

The Air Force also posted on the Air Force FOIA website the contact information to all FOIA Requester Service Center (RSC) and the Air Force FOIA Public Liaison Office if the requester wants to be able to speak with someone via e-Mail or telephonic.

The Air Force will continue to provide training to all the action office, legal, FOIA personnel to ensure everyone is up-to-date with the FOIA regulation requirement, emphasizing the importance of FOIA, and timeliness in responding to requests and administrative appeals.

# Armed Services Board of Contract Appeals



## ARMED SERVICES BOARD OF CONTRACT APPEALS

SKYLINE 6, ROOM 703  
5109 LEESBURG PIKE  
FALLS CHURCH, VA 22041-3208

703-681-8501

1 February 2010

MEMORANDUM FOR: United States Department of Justice  
Office of Information Policy

THROUGH: Defense Freedom of Information Policy Office

SUBJECT: Chief FOIA Officer Report

### I. Steps Taken to Apply the Presumption of Openness

Due to the size of the agency and the limited number of requests for records, all decisions relative to the releasability of records are made by the Chief FOIA Officer in full adherence with the spirit and letter of the President's FOIA memorandum and the Attorney General's FIOA guidelines.

### II. Steps Taken to Ensure That Your Component Has an Effective System For Responding to Requests

See response to I. above.

### III. Steps Taken to Increase Proactive Disclosures

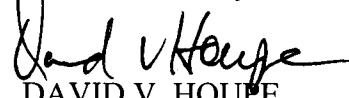
With the exception of classified decisions, all three-judge decisions rendered by the Board are made available on the internet and are supplied to Lexis and Westlaw for electronic publication and Commerce Clearing House for publication in their hard-copy reporter series. When contracting for reporting services, prospective bidders are proactively put on notice that their price proposals are subject to release.

### IV. Steps Taken to Greater Utilize Technology

Other than receiving requests electronically, due to the size of the agency and the limited universe of record requests, use of technology is limited to use of the DoD program for tracking FOIA requests.

### V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

The Board has no backlog of FOIA requests or administrative appeals. In an effort to expedite informal record requests prior to receipt of a compliant FOIA request, copies of decisions of the Board are routinely faxed to requesters on the same day the informal requests are received.

  
DAVID V. HOUFE  
FOIA OFFICER

# Defense Contract Audit Agency (DCAA)

I. Steps Taken to Apply the Presumption of Openness

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.

**DCAA FOIA HQ staff has adhered to various guidance and polices that stressed the importance of the President's FOIA Memorandum and Attorney General Holder's FOIA Guidelines. Also, we have taken various training sessions regarding this matter. This knowledge was then transferred to our regional coordinators to impart the presumption of openness is essential when processing FOIA requests.**

2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

**DCAA had an increase of FOIA requests processed as Full Grants in FY 09. In FY 09, 22 percent of FOIA requests were granted in full. Overall DCAA had a slight decrease in FOIA requests released in full or part as compared to FY 08. This was due to the increase of FOIA requests that were deemed to not be an agency record, 19 such cases in FY 09 as compared to 0 in FY 08.**

II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests

**DCAA employs a decentralized FOIA processing system, our Headquarters coordinates requests with our five regional centers. DCAA Headquarters records each FOIA request in our Excel database and tasks the appropriate regional for search. DCAA search tasking speed has been greatly improved with the use of scanned documents and e-mail. Taskers can be sent to regional offices the day of receipt.**

III. Steps Taken to Increase Proactive Disclosures

**DCAA is currently evaluating our records in order to place more records in our FOIA reading room. One such document is our annual Contractor Listing. This provides to the public a list of contractor audited by DCAA. For your information, DCAA press releases are conducted by the OSD Public Liaison.**

IV. Steps Taken to Greater Utilize Technology

1. Does your Component currently receive requests electronically?

**DCAA receives the majority of FOIA request through our [DCAA-FOIA@dcaa.mil](mailto:DCAA-FOIA@dcaa.mil) email address.**

2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically?

**N/A**

3. Does your Component track requests electronically?

**Yes, DCAA tracks request in our Excel Database.**

4. If not, what are the current impediments to your Component utilizing a system to track requests electronically?

**N/A**

5. Does your Component use technology to process requests?

**Yes, DCAA uses Adobe 9 Professional to redact documents requested under the FOIA, also documents are scanned for filing purposes. . DCAA searches have been greatly improved with the use of scanned documents and e-mail. Taskers can be sent to regional offices the day of receipt.**

6. If not, what are the current impediments to your Component utilizing a system to process requests?

**N/A**

7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report?

**DCAA utilizes our Excel Database to prepare our input to the DoD Annual FOIA report.**

8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?

**N/A**

## **V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.

**The DCAA FOIA backlog at the end of FY 09 was six cases with an average of 101 working days. Since the end of the fiscal year, we have closed four of the backlogged cases. DCAA had no backlogged administrative appeals at the end of FY 09.**

2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.

**DCAA is placing time limits on consultations sent outside the agency. If the time limit is surpassed, DCAA will process the records in our possession. Also, any increase in communication with requesters to narrow the scope of requests when needed should reduce backlogs and increase timeliness.**

3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.

**DCAA responded to all five FY 09 administrative appeals within the twenty business day limit. With DCAA's centralized administrative appeals process, we do not foresee an administrative appeal backlog developing.**

# Defense Contract Management Agency (DCMA)

**DEFENSE CONTRACT MANAGEMENT AGENCY (DCMA)**  
**Chief FOIA Officer Report to the Attorney General**  
**February 10, 2010**

**I. Steps Taken to Apply the Presumption of Openness**

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decisions involving the FOIA.
  - a. DCMA FOIA Officer provided FOIA training at the General Counsel Training Conference in March 2009, covering the implications of the Open Government Act (OGA) and President Obama's FOIA memorandum.
  - b. One-on-one training is regularly provided to the FOIA staff by the FOIA Officer during weekly required staff meetings and on an ad hoc basis.
  - c. Subject matter experts' recommendations are reviewed by counsel to ensure withholding of information is justified.
2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

|                         | <u>FY 08</u> | <u>FY09</u> |
|-------------------------|--------------|-------------|
| Granted in full release | 43           | 50          |
| Partial release         | 19           | 37          |
| Full Denial             | 4            | 3           |

**II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests**

- a. Tracking tools/metrics were developed and/or enhanced to assist in backlog improvement process.
- b. Recently obtained authorization to hire an additional FOIA/Privacy professional.
- c. The Office of General Counsel (OGC) has been very proactive in their support of the FOIA program by ensuring appropriate strategies are in place and coordination is adhered to. The OGC works with the FOIA Officer to ensure that cohesive responses are made and unified actions are taken throughout the Agency.
- d. FOIA managers/monitors follow-up with action offices on a regular basis to ensure expeditious processing. In the event of delays, requesters are routinely notified.
- e. We are currently addressing future IT support/needs.

**III. Steps Taken to Increase Proactive Disclosures**

A wealth of information is publicly available on the Agency website, to include the

following examples which have been cleared for public release and posted since the issuance of new guidance: (1) Redacted Monthly Action Reports (MARs) pertaining to the F-35 Joint Strike Fighter Program at Lockheed Martin; and (2) Redacted copies of all Corrective Action Requests (CARs) sent by DCMA to Kellogg, Brown & Root (KBR) and KBR's response. This proactive publication has reduced the need to process follow-on requests.

#### IV. Steps Taken to Greater Utilize Technology

1. Does your Component currently receive requests electronically? Yes, by email.
2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically? While we have a FOIA inbox posted to our website for email submissions, we have not yet acquired an electronic FOIA system. The main impediment to obtaining a system has been the lack of program management resources (i.e., the focus continues to be on maintaining day-to-day program efforts with little time to devote to management issues such as technical enhancements). However, recently the Chief FOIA Officer and FOIA Officer recently met with the CIO to discuss possible software acquisition. A list of vendors has been provided to his staff to review for compatibility with our system architecture. We hope to move forward with a COTS purchase in the near future.
3. Does your Component track requests electronically? Yes, only by way of Excel spreadsheets so the process is still somewhat manual.
4. If not, what are the current impediments to your Component utilizing a system to track requests electronically? Same as #2.
5. Does your Component use technology to process requests? DCMA utilizes the Adobe Acrobat Professional 9.0 redaction tool.
6. If not, what are the current impediments to your Component utilizing a system to process requests? If an entire suite of tools is acquired, the Adobe tool could possibly be replaced. See response to #2.
7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report? At the current time, not beyond the use of Excel spreadsheets.
8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report? We will be utilizing the Freedom of Information Reporting System (FOIRS) to provide input to the FY10 DoD Annual Report. Also see response to #2 pertaining to the possible acquisition of FOIA software.

#### V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.
  - a. DCMA does not have a backlog per se. At the end of FY09, there were only 9 open FOIA cases in the >20 days category. These requests feature highly complex issues that required extensions to the 20-day time limit.
2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it. N/A
3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.
  - a. In response to the OGA and President's memorandum, the FOIA Officer initiated mandatory weekly meetings with the FOIA staff to increase accountability on open issues, as well as to share relevant knowledge and skills. Open issues and obstacles are discussed, initiating conversation that leads to problem solving in other current issues. This also serves as lessons learned for future processing.
  - b. On complex requests involving multiple internal action offices, teams are formed (with a lead assigned) to collaborate and streamline communication between the various agency offices and the requester.
  - c. A proactive approach is taken in communicating with requesters and conscientious effort is made to ensure requests are adequately understood and clarified. We provide ample opportunity for submitters to provide input, while ensuring that this effort does not unduly delay the process.
  - d. Requesters are kept informed of the status of their requests and when possible, interim releases are made in an effort to provide documents as they become available.

# Defense Commissary Agency (DeCA)

## Defense Commissary Agency (DeCA) 2010 Chief FOIA Officer Report

### I. Steps Taken to Apply the Presumption of Openness.

#### 1. Steps taken by your component to ensure that the presumption of openness is applied to all decisions involving the FOIA.

- Even before the issuance of the January 21, 2009 Memorandum, DeCA understood Executive Order 13393, Improving Agency Disclosure of Information, December 14, 2005, to establish a requirement that a well informed citizenry and a citizen-centered program that was the results oriented goal for its FOIA program. Consistent with both that Executive Order and the January 21, 2009 Memorandum, DeCA applies a “discovery” standard to all FOIA requests. Except for certain mandatory exemptions, most particularly confidential financial information or b(4) and privacy or b(6) material, the Agency only considers withholding material when such material would not be available to an opposing party in litigation with the agency. In addition, the FOIA Office continually canvasses other Agency directorates in search of any information that may be posted on or linked to its electronic reading room. The Agency considers maximum openness with regard to its operations as a vital asset in providing this important “non-monetary benefit” to the members of the U. S. Armed Forces and their families.
- DeCA GC, in his capacity as the Agency FOIA Public Liaison, issued an e-mail on January 22, 2009 to the Director, all SES region directors, all senior staff and support personnel announcing the publication of the January 21, 2009 Presidential Memorandum For the Heads of Executive Departments and Agencies, Subject: Freedom of Information Act, emphasizing that FOIA would be administered “with a clear presumption [that] openness prevails,” reminding DeCA personnel that DeCA has an Electronic Reading Room to provide the public immediate access to a variety of documents, policies and information concerning DeCA, its organization and policies, and requesting that DeCA personnel review their documents to determine what documents exist which should be added to the DeCA Electronic Reading Room.
- DeCA GC issued an e-mail on October 19, 2009 to all region directors and senior staff reiterating the principle of openness as the “watchword” of FOIA, and reminding DeCA personnel of the procedures in place for the processing of FOIA requests.

#### 2. Any increase in the number of requests where records are released in full or in part compared with the previous year’s Annual FOIA Report.

- In 2007 and 2008 the Agency received 76 and 64 requests respectively. It made seven full denials in 2007 and three in 2008. In 2009 the Agency received 126 requests and made only one full denial.

### II. Steps Taken to ensure that your component has an effective system for responding to requests.

- When Executive Order 13392 was issued, DeCA GC established a standard protocol for processing FOIA requests which required that all DeCA regions and staff offices appoint a point of contact with whom the FOIA Officer could communicate and who would be responsible for locating, either personally or through subject matter experts within that office, all documents responsive to a FOIA request and transmitting those documents to the FOIA Officer for review. This processing protocol establishes short time suspense for response to the FOIA Officer to ensure compliance with statutory time limits and to identify requirements for additional time if needed to locate documents.
- The Freedom of Information Act section of DeCA's public web site, [www.commissaries.com](http://www.commissaries.com), contains an e-mail link which allows a requestor to e-mail a FOIA request.
- That same web site also contains a Frequently Asked Questions section which provides detailed guidance to requesters on making a proper FOIA request.
- In almost every FOIA request, the FOIA Officer communicates with the requester either by phone or e-mail to ensure speedy processing of requests.
- Due to the relatively small number of requests the Agency FOIA officer is personally responsible for complete and timely response to all requesters under the supervision of the Deputy General Counsel for Litigation and the General Counsel (Agency FOIA Public Liaison).

### III. Steps taken to increase Proactive Disclosures.

The Agency has undertaken the following steps in increase its general openness and proactive disclosure:

- DeCA's public web site, [www.commissaries.com](http://www.commissaries.com) provides the public with a wealth of information, including all Agency press releases, identifying the locations of its commissaries, region headquarters and headquarters; information concerning commissary shopping, including case lot sales, the ability to create shopping lists for each commissary, and a link to the Virtual Commissary, which allows for the on-line ordering of specialty items; information concerning healthy living, including nutrition, recipes, and a link to ask a question of the DeCA Dietician; information concerning customer service, including patron councils, comment cards, and the shoppers' bill of rights; information concerning commissary news, including press releases and links to food safety information; and information on doing business with DeCA and applying for a job with DeCA.
- As a result of the release restrictions occasioned by the Court of Appeals For the District of Columbia decision in Canadian Commercial Corp. v. Department of the Air Force, 514 F.3d 37 (2008) , DeCA found that the time needed to process requests

for contracts for brand name products, deli and bakery operations, and receiving, stocking and materials handling contracts increased dramatically due to necessity of consulting with the incumbent contractor to determine what, if any objections, that incumbent had to the release of confidential financial information. To lessen the amount of time involved, the Agency has placed the following notice on its contract solicitations page to facilitate openness in its contracting administration: "Upon award of this contract, the Agency intends to make public the total contract award amount, as well as any awarded individual contract line item pricing (CLIN and Sub-CLIN), within the Agency electronic reading room." This requires potential contractors, at the time of the solicitation of a contract, to object to that condition or otherwise waive any objections to the release of that information.

- With regard to contracts already awarded and not posted due to the implications of the Canadian Commercial decision, the Agency has undertaken a program to identify those current contracts it anticipates will be requested and performs the required submitters notice and harm analysis prior to any request being made.
- The Agency's Office of General Counsel, which administers the FOIA program, is seeking "administrator rights" for the Agency Electronic Reading Room thus eliminating a layer of bureaucracy and facilitate the general openness of the Agency's operations.
- DeCA has also established a presence on Facebook and Twitter so that information concerning commissary shopping may be "pushed" to commissary patrons and allow patrons to provide immediate feedback.

#### IV. Steps taken to greater utilize technology.

##### 1. Does your Component currently receive requests electronically?

Yes, *via* e-mail to FOIA request inbox (FOIA@deca.mil) as well as direct e-mail to agency personnel which are forwarded to the FOIA Officer for processing. The Freedom of Information Act section of DeCA's public web site, [www.commissaries.com](http://www.commissaries.com), contains an e-mail link which allows a requestor to e-mail a FOIA request.

##### 2. If not, what are the current impediments to your component establishing a mechanism to receive requests electronically?

- N/A.

##### 3. Does your component track requests electronically?

- Yes. Owing to the relatively small number of requests received by the Agency Microsoft Outlook scheduling and tasking fulfills the need for receiving, tracking, and responding to requests in an efficient and timely manner. Additionally, the Agency maintains a data-base through which a requestor is able to check the status of

their requests. The Agency provides access information to requestors when it believes that processing a request may exceed 10 days.

4. If not, what are the current impediments to you Component utilizing a system to track requests electronically?

- N/A.

5. Does you Component use technology to process requests?

- Yes, the majority of requested records are already in electronic format and are accessed, processed and, in nearly all cases, provided to the requestor, via electronic means. The Defense Commissary Agency has virtually eliminated paper in its FOIA procedures. Also, with regard to redaction, the Agency utilizes Adobe Pro which provides for a safe “non-reversible” method of redacting information.

6. If not, what are the current impediments to your component utilizing a system to process requests.

- N/A.

7. Does your agency utilize technology to prepare your components input to the DOD annual FOIA report?

- Currently the Agency prepares its report in the prescribed Adobe format and forwards it electronically to DOD. The Agency plans to utilize FOIRS when available.

8. If not, what are the current impediments to your component utilizing a system to prepare your Component’s input the DOD Annual FOIA report?

- N/A.

V. Steps taken to reduce backlogs and improve timeliness in responding to requests.

- The Defense Commissary has no FOIA backlog.

1. If your component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of fiscal year 2009 and in terms of the age of the requests and appeals.

- N/A.

12. If your backlog is not decreasing, describe why and steps your component is taking to reduce it.

- N/A.

12. Describe the steps your component is taking to improve timeliness in responding to requests and administrative appeals.

The only timeliness issue facing the Defense Commissary Agency is that of the necessity of providing submitters notices in those requests involving contracts containing confidential financial information. DeCA is addressing that issue by taking the steps mentioned in III above in anticipation of such requests.

# Defense Finance and Accounting Service (DFAS)

**Chief FOIA Officer's Report – January 2010**  
**Defense Finance and Accounting Service**  
**8899 E. 56<sup>th</sup> Street**  
**Indianapolis, IN 46249-0150**

**I. Steps Taken to Apply the Presumption of Openness**

**The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.**

**1. Describe below the steps your agency has taken to ensure that that presumption is being applied to all decisions involving the FOIA. This section should include a discussion of the range of steps taken by your agency to apply this presumption, from publicizing the President's FOIA Memorandum and Attorney General's FOIA Guidelines and providing training on them, to implementing the presumption in response to FOIA requests and administrative appeals, with examples or statistics illustrating your agency's action in making discretionary releases of records or partial releases when full disclosure is not possible.**

**Response:** In FY 2009, the Agency only used FOIA exemption 5 three times, and did not use exemption 2 once. The Agency is routinely reviewing records for release that were previously withheld under Exemption 5 such as pre-decisional and internal communications and releasing responsive records. Partial disclosures are also made with redaction of (b) (6) portions of records which previously would be withheld. The President's FOIA memorandum and the Attorney General's Guidelines have been posted to the Agency FOIA reading room and the Agency leadership has been briefed on the new policy. All FOIA personnel have received on the job training as well as formal training at FOIA conferences.

**2. Report whether your agency shows an increase in the number of requests where records have been released in full or where records have been released in part when compared with those numbers in the previous year's Annual FOIA Report.**

**Response:** The majority of the records requested from DFAS are payroll or accounting related records such as military, civilian or retired payroll records and contracts, invoices, or payment documents. We have very few requests for other agency records. Therefore, the release of these types of records hinges on the type, and whether there is an exemption that applies. For instance we normally use exemption (b) (6) and there is no discretion in the release of those records. For contracts we may use (b) (4) if the information is proprietary and again, there is little discretion in the release of records that could potentially harm a business if they are released. So we have not seen a significant change in how or what records we release.

**II. Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests**

As the Attorney General emphasized in his FOIA Guidelines, “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

**Response:** Our actions ensure we complete requests within the required 20 days if at all possible or that we personally discuss any needs for extensions with the requester, when this is not possible. We have made improvements to our FOIA Reading Room to help requesters better understand the process. Finally, our Acting FOIA/PA Officer is personally tracking and updating the Director, Corporate Communications on the status of all actions weekly (to include any overage request) and executing as necessary to eliminate backlogs through overtime and other workload balancing measures.

### **III. Steps Taken To Increase Proactive Disclosures**

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received. Describe here the steps your agency has taken to increase the amount of material that is available on your agency website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines.

**Response:** As stated earlier, the majority of DFAS FOIA requests are for pay and other financial records which contain Personally Identifiable Information, such as individual pay records, which are only released to the individual concerned and are not appropriate for posting on a public web site. However, to meet the spirit and intent of the Attorney General’s guidelines, we have made available in our FOIA/Privacy Act Electronic Reading Room other records released to the public, that are or could likely become the subject of subsequent requests. These include redacted copies of DFAS Financial Integrated Systems Services II contracts and the DFAS Impact Card Holder listing.

### **IV. Steps Taken To Greater Utilize Technology**

A key component of the President’s Memorandum was the direction to “use modern technology to inform citizens about what is known and done by their Government.” In addition to using the internet to make proactive disclosures, agencies should also

be exploring ways to utilize technology in responding to requests. For this section of the Chief FOIA Officer Report, please answer the following questions:

- 1.) Does your agency currently receive requests electronically. Response: Yes
- 2.) If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically. N/A
- 3.) Does your agency track requests electronically. Yes
- 4.) If not, what are the current impediments to your agency utilizing a system to track requests electronically. N/A
- 5.) Does your agency use technology to process requests. Yes
- 6.) If not, what are the current impediments to your agency utilizing technology to process requests. N/A
- 7.) Does your agency utilize technology to prepare your agency Annual FOIA Report. Yes
- 8.) If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report. Yes

#### **V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs is an ongoing agency effort. Both the President and the Attorney General emphasized the importance of improving timeliness in responding to requests. Section XII of your Annual FOIA Report includes figures that show your agency's backlog of pending requests and administrative appeals for the previous fiscal year and for this current fiscal year. Your Chief FOIA Officer Report should address the following elements.

1. If you have a backlog, report here whether your backlog is decreasing. That reduction should be measured both in terms of the numbers of backlogged requests and administrative appeals that remain pending at the end of the fiscal year, and in terms of the age of those requests and appeals.

**Response:** We had a backlog of 21 requests at the end of FY 2009 and our backlog now is 6. The oldest case is currently open for 20 days. There are no appeals currently open.

**2. If there has not been a reduction in the backlog describe why that has occurred and what steps your agency is taking to bring about a reduction. N/A**

**3. Describe the steps your agency is taking to improve timeliness in responding to requests and to administrative appeals.**

**Response:** We have consolidated the FOIA/PA function to two DFAS sites rather than 3 which will allow us to better utilize our resources. We are providing additional FOIA training to those working FOIA requests and we have sent two new FOIA Officers to official training so they will be able to properly respond to the FOIAs. We have been working on a Lean 6 study to determine if a new automated system for tracking FOIAs is feasible and cost effective. Finally, we are paying for one employee to attend training, to test and ultimately receive a CIPP/G certification, to further increase our level of professionalism.

**Response:** DFAS does not receive many administrative appeals, only three in 2009, so there is no real problem with responding to the appeals.

# Defense Intelligence Agency (DIA)

Defense Intelligence Agency Chief FOIA Report, February 2010

I. Steps Taken to Apply the Presumption of Openness

- Distributed the President's FOIA memo to all FOIA POCs within the Agency and provided in-depth discussion during the element training classes throughout the year.
- In August 2009, a FOIA attorney was assigned to work directly with the FOIA Office to provide more oversight on the use of FOIA exemptions.
- As reported in the FY08 and FY 09 Annual Reports, the number of partial grants increased by 200 percent, along with a 30 percent decrease in the denied in full.

II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests

- Upgraded IT equipment and the electronic FOIA processing system.
- A full-time IT Specialist was assigned to the FOIA Office to provide real time support of the systems.

III. Steps Taken to Increase Proactive Disclosures

- The Agency's website was updated to be in compliance with the new FOIA guidelines. Additional steps are being taken to post more information on the website.

IV. Steps Taken to Greater Utilize Technology

- Receives requests electronically via email or fax.
- Track requests electronically.
- Currently uses an electronic FOIA processing system to process requests.
- This Agency utilizes technology to prepare input to the DoD Annual FOIA report

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

- Although there was only a one percent reduction in the backlog, the age of the oldest FOIA case was 3,298 days in FY09 compared to 3,531 days in FY08. The number of appeals increased, however the age of the oldest appeal was 3,187 in FY09 compared to 3,278 days in FY08.
- Currently, the Agency has a backlog of over 2,600 FOIA requests which decreased slightly this past fiscal year. The Agency converted seven

contractor billets to government billets to provide a more stable workforce but additional manpower is needed.

- The FOIA Office has taken aggressive steps to focus on the oldest cases as well as reduce the backlog by the mandated Department of Defense 10 percent annually.
- A temporary billet was devoted to processing the oldest FOIA cases.
- With an attorney directly supporting the FOIA Office, the backlog of appeals should decrease during FY10.
- A Lean Six Sigma Project was created to improve the capabilities of the electronic processing system. The project identified a need for a new data repository within the system. All FOIA documents were migrated to the new repository to improve the speed of the electronic processing system.

# Defense Information Systems Agency (DISA)

## I. Steps Taken to Apply the Presumption of Openness

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.

The Defense Information Systems Agency's (DISA) FOIA Officer is in constant contact with the office of record to ensure that each FOIA request is looked at individually with the understanding that all information is to be reviewed for full disclosure. If this is not possible, records are to be reviewed to ensure as much information is released when full disclosure is not possible. Our numbers have increased regarding full releases and partial denials from 2008 to the present. Our administrative appeals resulted from no records being located vice our denial of records requested.

2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

In 2008, DISA had eleven full grants and forty-six partial denials. In 2009, there were eight-five full grants and forty-nine partial denials. We are making great strides to make sure we are releasing as much information as possible to the public.

## II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests.

DISA is currently using the Agency's Action Information Management Systems (AIMS) to electronically get all FOIA actions to the office of record in a timely manner. This program allows both the FOIA Office and office of record to discuss the FOIA request and provide for electronic responses to the requestor. This has helped the response time but not enough to lower the backlog. DISA is trying to purchase FOIA software to assist the FOIA office, but current financial restraints have slowed the process.

## III. Steps Taken to Increase Proactive Disclosures

The FOIA Office continues to update its FOIA webpage, ensuring that all multiple requested records are located in an easily accessible location for the public. Our Public Affairs Office uses their website to disclose information to the public of all public affair releases regarding the Agency. The Agency disclosed via its public website information regarding upcoming Agency contracts, contracts that have been awarded and upcoming Agency programs and projects.

#### IV. Steps Taken to Greater Utilize Technology

1. Does your Component currently receive requests electronically? Yes
2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically?
3. Does your Component track requests electronically? No
4. If not, what are the current impediments to your Component utilizing a system to track requests electronically? Budgetary restraints
5. Does your Component use technology to process requests? No
6. If not, what are the current impediments to your Component utilizing a system to process requests? Budgetary restraints
7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report? No
8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report? Budgetary restraints

#### V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals. Backlog did not decrease from Fiscal Year 2008 to Fiscal Year 2009.
2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it. Responses to FOIA requests are becoming more voluminous. More time is being spent on reviewing responses for release. DISA has a FOIA Office which consists of one person. Agency is currently trying to find monies to purchase a FOIA software program to assist the FOIA Officer.
3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals. Agency is currently trying to find monies to purchase a FOIA software program to assist the FOIA Officer.

# Defense Logistics Agency (DLA)



## DLA Chief FOIA Officer's Report -- FY 2010

### EXECUTIVE SUMMARY

The Defense Logistics Agency (DLA) has taken administrative, technical, and procedural steps to apply the Administration's new Freedom of Information Act (FOIA) Presumption of Openness, spelled out in the President's January 21, 2009 Executive Memorandum. The results have been measurable increases in openness as defined by increased percentages of full and partial grants made in response to FOIA requests and in greater release percentages associated with FOIA appeals. The following sections describe some of DLA's actions towards achieving these results.

#### I. Steps Taken to Apply the Presumption of Openness

##### ***1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.***

- On Apr. 17, 2009, less than 30-days after the Attorney General issued his memorandum implementing the President's directive, the DLA Director issued direction affecting the Attorney General's guidance in a memorandum to the DLA Executive Board titled, "SUBJECT: Attorney General Memorandum on the Freedom of Information Act (FOIA)." The Director's memorandum (1) asked agency employees to evaluate "[w]hat can be released?" applying the presumption of openness and striving to maximize the amount of records released; and (2) directed each employee to participate in this effort as, "[t]he 'new era of open Government' require[s] the commitment of all DLA personnel."
- On Jun. 3, 2009, the DLA FOIA and Privacy Office held a Virtual Teleconference (VTC) with all DLA FOIA, Privacy, and General Counsel points-of-contacts to educate them on the Attorney General's guidance and to answer questions raised regarding the changes in the Administration's policy. Clarified DLA would no longer use FOIA Exemption b(2), "low," per DOJ guidance regarding trivial administrative matters.

##### ***2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.***

- Full releases increased up 4% to 89% in FY09 from 85% in FY08.
- Full denials decreased 93% in FY09 -- from 84 total in FY08 to less than 6.
- Tables comparing FY08 and FY09 for Initial Requests and for Appeals are provided below.

## DLA Chief FOIA Officer's Report -- FY 2010

| <b>INITIAL REQUESTS</b> |                                   |                                 |                |                                    |             |                                  |                           |                     |
|-------------------------|-----------------------------------|---------------------------------|----------------|------------------------------------|-------------|----------------------------------|---------------------------|---------------------|
| FY                      | Full Grants (i.e., full releases) | % Full Grants of Total Requests | Partial Grants | % Partial Grants of Total Requests | Full Denial | % Full Denials of Total Requests | Withdrawn, Referred, etc. | Total FOIA Requests |
| FY09                    | 5224                              | 89%                             | 245            | 4%                                 | 6           | 0.1%                             | 398                       | 5873                |
| FY08                    | 4696                              | 85%                             | 387            | 7%                                 | 84          | 1.5%                             | 374                       | 5541                |

**Table 1. Initial FOIA Requests - FY 2009 vs. FY 2008**

| <b>APPEALS</b> |  |                             |                  |                                     |                  |                                     |               |
|----------------|--|-----------------------------|------------------|-------------------------------------|------------------|-------------------------------------|---------------|
| FY             | Appeal Affirmed (i.e., withholding upheld) | % of Total Appeals Affirmed | Reversed in Part | % of Total Appeals Reversed in Part | Reversed in Full | % of Total Appeals Reversed in Full | Total Appeals |
| FY09           | 1  | 7%                          | 5                | 36%                                 | 2                | 14%                                 | 14            |
| FY08           | 6  | 38%                         | 2                | 13%                                 | 1                | 6%                                  | 16            |

**Table 2. FOIA Appeals -- FY 2009 vs. FY 2008**

### II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests

- DLA uses the AINS FOIAXpress FOIA request and appeal tracking and processing system enterprise-wide.
- Each DLA headquarters element, e.g., J-1 (Personnel), J-3/4 (Logistics Operations & Readiness), J-5 (Enterprise Transformation), J-6 (Information Operations), etc., have designated a point-of-contact responsible for processing FOIA requests in their element's area of responsibility in order to reduce processing time during the document search phase of the FOIA request.
- Instituted weekly FOIA metric report to DLA General Counsel on FOIA request and appeal processing by HQ element and DLA field activity. Emphasis on performance metrics and decentralized nature of program produces greater focus on timely, accurate, and complete search, review, and response.
- Internal review process streamlined through designation of specific legal counsel familiar with FOIA case law.

### III. Steps Taken to Increase Proactive Disclosures

- DLA's FOIA and Privacy Office completely redesigned its website to improve the public's ability to locate information available on DLA websites. The newly released DLA FOIA and Privacy website is at <http://www.dla.mil/FOIA-Privacy/default.aspx>.

## DLA Chief FOIA Officer's Report -- FY 2010

### IV. Steps Taken to Greater Utilize Technology

- 1. Does your Component currently receive requests electronically?**
  - Yes. A requester may submit a FOIA request via e-mail.
- 2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically?**
- 3. Does your Component track requests electronically?**
  - Yes. DLA uses the AINS FOIAxpress information system. However, a requester is not able to track the status of his/her request on the DLA FOIAxpress information system at this time.
- 4. If not, what are the current impediments to your Component utilizing a system to track requests electronically?**
  - With respect to requesters being able to track the status of their request on the DLA FOIAxpress information system, DLA is evaluating technical, security, and budget considerations necessary to implement such a feature in the future.
- 5. Does your Component use technology to process requests?**
  - Yes. AINS FOIAxpress
- 6. If not, what are the current impediments to your Component utilizing a system to process requests?**
- 7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report?**
  - Yes.
- 8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?**

### V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

- 1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.**
  - Backlogged requests have increased from 27 requests at the end of FY08 to 65 at the end of FY09. However, the average age of the request has significantly decreased from 40 days to 21 days.

## DLA Chief FOIA Officer's Report -- FY 2010

- There has been no change in the backlog for appeals between FY08 and FY09 with it staying constant at 6.

| <b>BACKLOG</b>              |      |      |
|-----------------------------|------|------|
|                             | FY09 | FY08 |
| Initial Requests            | 65   | 17   |
| Appeal                      | 6    | 6    |
| Avg Age                     | 21   | 40   |
| Oldest in days at end of FY | 254  | 453  |

**Table 3. Backlog for FOIA Requests and Appeals**

2. *If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.*
  - DLA is tracking all FOIA requests using a single automated system. Greater automation results in greater accuracy of statistics. Actual backlog may not have changed; statistics may just be more accurately measured by single automated system.
  - DLA field activities are migrating privacy/FOIA responsibilities and staff into local Counsel Offices to obtain greater responsiveness to FOIA requests and privacy taskings in effort to reduce backlog.
  - DLA's HQ FOIA/Privacy Office added 1 full-time privacy/access professional with the end result of no increase in appeal backlog.
3. *Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.*
  - The DLA FOIA and Privacy Office is aligned under the DLA Office of General Counsel. The DLA General Counsel has made a decision to realign the DLA FOIA and Privacy programs at all DLA field activities under the local Counsel Office's auspices. This realignment is intended to improve timeliness of response to FOIA requests and appeals. Completion of this realignment is targeted for end of FY10.
  - DLA has ensured several of its key FOIA Officers have received critical FOIA knowledge and skills by providing funds for training at the U.S. Department of Justice and at the American Society of Access Professionals educational seminars.
  - DLA is planning a multi-day component-wide FOIA/Privacy training seminar for all DLA FOIA and Privacy Officers in early FY11.

# Department of Defense Education Activity (DoDEA)

## **New DoD Freedom of Information Act (FOIA) Report to the Attorney General**

### **Content of Chief FOIA Officer Reports**

#### **I. Steps Taken to Apply the Presumption of Openness**

1. The Department of Defense Education Activity (DoDEA) is taking every possible step to apply with the President's FOIA Memorandum and Attorney General's FOIA Guidelines of presumption of openness of FOIA. DoDEA has provided the FOIA Officer and her assistant every opportunity to attend FOIA training. This training keeps the FOIA Officer and her assistant abreast of changes to FOIA laws and regulations and to administer the FOIA with a clear presumption in favor of disclosure. DoDEA has created a reading room on the website, posting records that the public is able to review and copy at any time. This agency is making every effort to process FOIA requests within the 20 business days requirement.
2. In FY 2009, this agency released 8 FOIA/PA requests in full, where as in FY 2008, 4 FOIA/PA requests were released in full.

#### **II. Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests**

DoDEA is currently using AINS, Inc.'s FOIAxpress Electronic FOIA product and RedactXpress Electronic Redaction product which provide a more consolidated, efficient system to process FOIAs in a professional and timely manner. We notify the FOIA requesters within 3 business days of receipt of their FOIA request and provide the taskers plenty of time to search for responsive documents. The taskers also have sufficient IT support when searching for responsive documents.

#### **III. Steps Taken To Increase Proactive Disclosures**

The Agency's Communications Division is consistently posting DoDEA's News releases on our webpage such as, Task Group Meetings to plan for DoDEA's future, retirements, any and everything that will keep our parents, principals, teachers, and staff informed. Documents that the agency believes that the public would be interested in is posted on the Website. The agency's FOIA reading room on the Website includes readily available documents for public use. FOIA responsive documents are reviewed for release with a mind set of what can be released under FOIA laws and regulations instead of what can be withheld.

#### **IV. Steps Taken To Greater Utilize Technology**

1. DoDEA is currently receiving FOIA requests electronically.

2. N/A.
3. This agency also tracks FOIA requests electronically.
4. Although, FOIA requesters are not able to find out the status of their requests electronically, there is always someone that they can call and/or contact for their FOIA status. DoDEA is in the process of reviewing AINS' FOIAxpress Public Access Module (PAL) information and quote. PAL should expedite communications with the public, increase efficiency and productivity in processing requests, etc. This software allows the public to submit and track the status of their FOIA requests over the internet.
5. This agency does use technology to process FOIA requests. We are presently using the AINS' FOIAxpress and RedactXpress software. The FOIAxpress generates a tracking number, creates acknowledgement letters, tasking memorandums, final response letters, Annual Report, etc. The RedactXpress gives the capability to redact withholdable information and also enters appropriate exemptions code within the redacted square.

6. N/A.
7. This agency does utilize technology to prepare the Annual FOIA Report.
8. N/A.

## **V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

1. Normally, this agency can respond to FOIA request in the appropriate time. When contracts are requested, this takes longer because of the negotiations with awarded contractors. Last year this time (FY 2009), we had a backlog of 9 FOIA requests. This year (FY 2010) at this time, we have a backlog of 3 FOIA requests. We are limiting the time provided for taskers to respond to the FOIA Office, so that we have additional time for coordinations.
2. N/A
3. In reference to FOIA requests for awarded contracts, we will shorten the time provided for awarded contractors to respond to submitter notification letters. We will limit the time provided for taskers to respond to the tasking memorandum. Documents that are frequently requested will be posted on the agency's website.

Department of Defense  
Inspector General  
(DoD IG)

**CHIEF FOIA OFFICER REPORT**  
DEPARTMENT OF DEFENSE, OFFICE OF THE INSPECTOR GENERAL

**I. Steps Taken to Apply the Presumption of Openness**

**1. Steps taken by your agency to ensure that the presumption of openness is being applied to all decisions involving the FOIA.**

The President's FOIA Memorandum and the Attorney General's FOIA Guidelines were disseminated to the Deputy Inspector Generals and the General Counsel. The DoD IG Inspector General was personally briefed on these topics in March 2009. As a result of this briefing, he provided us with an additional FOIA position and funding to purchase FOIA Xpress, a FOIA document management system to replace our old Access database.

We deal in law enforcement records, administrative investigations, audit and intelligence reports, and evaluations. We do not have specific examples or detailed statistics, but, as a matter of practice, we do routinely release records to the fullest extent, unless the record, or any portions of that record or group of records, would cause harm. During FY 2009, we had 24 full grants, 129 partial grants, and 116 full denials. In FY 2008 we had 19 full grants, 181 partial grants, and 44 full denials.

**2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.**

| <u>Fiscal Year</u> | <u>Released in Full</u> | <u>Difference</u> | <u>Released in Part</u> | <u>Difference</u> |
|--------------------|-------------------------|-------------------|-------------------------|-------------------|
| 2008               | 19                      |                   | 181                     |                   |
| 2009               | 24                      | + 5               | 129                     | - 52              |

**II. Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests**

The Agency completely revised its FOIA website (<http://www.dodig.mil/fo/Foia/foia.htm>) and increased the size of its FOIA staff by twenty percent. The new website includes on-line request forms, requester tutorials, and a variety of resource materials to assist the public in properly submitting their requests. We purchased a new FOIA Compliant Electronic Date Stamp Machine and a FOIA document management system entitled, FOIA Xpress, and equipped each FOIA staffer with a laptop, 22" monitor, scanner, color printer, a telephone headset, and a Blackberry.

This Agency publishes a toll free telephone number to simplify public access, and separate numbers for the FOIA Requester Service Center, the FOIA Public Liaison, and the Privacy Office, all complete with voice mail. We also have “Contact Us” web forms for general questions. In addition to the above, we upgraded our FOIA Specialist positions to Senior FOIA Specialists, as well as their related position sensitivities to allow greater access to classified information, to facilitate retention of critical personnel.

We meet face-to-face, in most instances, with the offices that have responsive records to discuss the impact of our release recommendations prior to the actual release. We are also revising the Agency’s FOIA Instruction to incorporate the provisions of the President’s memorandum and Attorney General’s guidance.

### **III. Steps Taken To Increase Proactive Disclosures**

The Department of Defense, Office of the Inspector General, posts a large majority of its work product, primarily reports, on its public website. The posting either contains the complete report or a listing that includes simple instructions for requesting the report under the FOIA. In fact, these instructions include a link to the FOIA website. We also have a List Serve to notify the public when reports are issued. Here are a few examples of our proactive disclosures:

Audit Reports

(<http://www.dodig.mil/Audit/reports/index.html>)

Policy and Oversight Reports

(<http://www.dodig.mil/Audit/reports/index.html>)

Inspections and Evaluation Reports

(<http://www.dodig.mil/Inspections/IE/Reports.htm>)

Intelligence Reports

(<http://www.dodig.mil/Ir/reports.htm>)

Investigative Policy and Oversight Reports

(<http://www.dodig.mil/Ir/reports.htm>)

Special Plans and Operations Reports

(<http://www.dodig.mil/SPO/reports.html>)

### **IV. Steps Taken To Greater Utilize Technology**

#### **1. Does your Component currently receive requests electronically?**

Yes, using three different types of request forms on our FOIA website.

**2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically?**

Not Applicable.

**3. Does your Component track requests electronically?**

Yes, using FOIA Xpress, a FOIA focused document management system.

**4. If not, what are the current impediments to your Component utilizing a system to track requests electronically?**

Not Applicable.

**5. Does your Component use technology to process requests?**

Yes. We utilize Microsoft Office 2007 and FOIA Xpress, which includes the following hardware resources for each FOIA Specialist, HP Laptop with docking station, 22" monitor, color printer, scanner, headset, Cisco IP Phone, and a Blackberry.

**6. If not, what are the current impediments to your Component utilizing a system to process requests.**

Not Applicable.

**7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA Report?**

Yes. This is an attribute of FOIA Xpress.

**8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA Report?**

Not Applicable.

**V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

**1. If your Component has a backlog, indicate here whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of those requests and appeals.**

| <u>Fiscal Year</u> | <u>Request Backlog</u> | <u>Difference</u> | <u>Appeal Backlog</u> | <u>Difference</u> |
|--------------------|------------------------|-------------------|-----------------------|-------------------|
| 2008               | 36                     |                   | 7                     |                   |
| 2009               | 32                     | - 4               | 13                    | + 6               |

| <u>Appeals</u> | <u>FY 2008</u> | <u>FY 2009</u> | <u>Difference</u> |
|----------------|----------------|----------------|-------------------|
| 20060821       | 588            | 777            | + 189             |
| 20071105       | 224            | 475            | + 251             |
| 20080625       | 67             | 316            | + 249             |
| 20080708       | 59             | 308            | + 249             |
| 20080805       | 39             | 288            | + 249             |
| 20080926       | 3              | 251            | + 248             |

| <u>Requests</u> | <u>FY 2008</u> | <u>FY 2009</u> | <u>Difference</u> |
|-----------------|----------------|----------------|-------------------|
| 20050110        | 932            | 1182           | + 250             |
| 20050811        | 785            | 1034           | + 249             |
| 20060308        | 641            | 893            | + 252             |
| 20060308        | 641            | 893            | + 252             |
| 20070424        | 245            | 610            | + 365             |

**2. If your backlog is not decreasing, describe why and what steps your Component is taking to reduce it.**

The key factor that has affected our progress in addressing backlog issues during the fiscal year is personnel recruitment and retention. Although we received approval for an increase in our staffing in March 2009, attrition and the time required to recruit and select qualified personnel has left our organization at about fifty percent of our full performance level. This deficiency is, however, receiving priority attention and we are confident that we will be fully staffed in the near future.

Another factor that affects our ability to respond more promptly is the existence of other agency information in DoD IG records. In these situations, we must consult with organization that may have extensive backlogs of their own. In these situations, we can only respond to the requester when the other agency provides us with the result of their review. This applies to most of our backlogged requests and appeals. We do, however, periodically follow-up with the consulted agencies to ascertain the disposition of their reviews.

Finally, we have very limited resources to address classified records. Although we have solid support for unclassified records, when classified records are involved, we must seek resources elsewhere in the DoD IG to process such requests. Additional resources are required within the division to process

classified records. Since over fifty percent of our backlog involves classified records, this resource disadvantage has an adverse affect on our ability to promptly handle classified information. Further, staff clearances have not met the needs of the organization when higher level clearances are involved to process requests. This clearance matter, on the other hand, should be resolved shortly, since all new position descriptions reflect a higher clearance level for our Senior FOIA Specialists.

**3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.**

The additional staffing mentioned above should resolve the aforementioned processing impediments. We are also working on the infrastructure to provide tools to our document processors such as templates, forms, internal training, and flow process charting, to increase the efficiency of our organization. Further, we intend to produce a FOIA Processing Guide which will address matters typically faced within the DoD IG organization.

# Defense Security Service (DSS)

**I. Steps Taken to Apply the Presumption of Openness**

- 1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.**

Defense Security Service (DSS) FOIA responses where an exemption is being considered must have supervisory review and General Counsel coordination to ensure the presumption of openness is being applied.

- 2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.**

No significant change.

**II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests.** DSS has made no current changes to our FOIA processing system as we consider it to be effective.

**III. Steps Taken to Increase Proactive Disclosures** Anytime DSS receives more than one FOIA request for the same record and that record is releasable in full, the record will be posted in our reading room on DSS's public website.

**IV. Steps Taken to Greater Utilize Technology**

- 1. Does your Component currently receive requests electronically?** Yes
2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically?
- 3. Does your Component track requests electronically?** Yes
4. If not, what are the current impediments to your Component utilizing a system to track requests electronically?
- 5. Does your Component use technology to process requests?** Yes
6. If not, what are the current impediments to your Component utilizing a system to process requests?
- 7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report?** Yes
8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?

**V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

1. **If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.** DSS has no current backlog of FOIA requests.
2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.
3. **Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.** Timeliness for FOIA request and FOIA appeals are generally completed within the statutory time frame.

# Defense Technical Information Center (DTIC)

## I. Steps Taken to Apply the Presumption of Openness

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decisions involving the FOIA.

President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines have been incorporated into DTIC's FOIA Desk Procedures to ensure that personnel responsible for processing FOIA requests are aware of the requirement to "administer with the presumption of openness called for by the President".

2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

In FY 2008, DTIC processed 51 requests. Of those, 10 (20%) were "full grants". In FY 2009, DTIC processed 161 requests. Of those, 45 (28%) were "full grants".

## II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests

Since initial FOIA requests submitted to DTIC are received, logged in, tracked, and tasked as needed to the appropriate Directorate by one office, the system is effective. This usually has been due to the relatively small number of requests received annually and due to usually only two types of records/documents requested (i.e. bibliographies produced from our technical report database or actual copies of documents from the our technical report collection).

## III. Steps Taken to Increase Proactive Disclosures

The scope of DTIC's scientific and technical (S&T) collection covers all areas of defense research, including biological and medical science, environmental pollution and control, and behavioral and social science. The collection also contains DoD directives and instructions, budget information, conference and symposia proceedings, patents and patent applications, and other topics of interest. The DTIC Online (Public) website is a one-stop customer interface integrating DTIC's unlimited access collections and other public S&T information resources. All visitors can search DTIC's publicly accessible collections and view or download full text scientific and technical documents, using DTIC Online service. Many of the documents on the DTIC Online (Public) website can be viewed and/or downloaded in full text through the website at <http://www.dtic.mil/dtic/search/tr/index.html>.

In addition to DTIC's public website, copies of documents in DTIC's

technical report database that are approved for public release are also provided to the National Technical Information Service (NTIS) to be added into their document collection(s). This also enables NTIS to make DoD scientific and technical (STI) information available to the general public.

#### IV. Steps Taken to Greater Utilize Technology

1. Does your Component currently receive requests electronically?

Yes, DTIC receives requests electronically, via facsimile or email.

2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically?

N/A

3. Does your Component track requests electronically?

In the past, DTIC did not track requests electronically. Since only one office processes/tracks requests received, using a manual process was not a problem.

At the request of the Defense Freedom of Information (FOIA) Policy Office, DTIC developed the Freedom of Information Reporting System (FOIRS) annual report website. FOIRS was released on November 12, 2009. The FOIRS provides an online case tracking and reporting capability for use by all Freedom of Information offices throughout the DoD. The FOIRS will enable us to enter and track our FOIA cases throughout the year, and then quickly and accurately compile our annual report for the DFOIPO office.

4. If not, what are the current impediments to your Component utilizing a system to track requests electronically.

N/A

5. Does your Component use technology to process requests?

Yes, DTIC uses technology to process requests. Application of technology includes using email (versus paper) to request documents; delegate search requests to responsible DTIC organizations and to prepare and send final responses to requesters. Where possible, DTIC has provided electronic copies of documents or products when requested.

6. If not, what are the current impediments to your Component utilizing a system to process requests?

N/A

7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report?

Yes, DTIC has used technology to prepare our input to the DoD Annual FOIA report. In 1995, DTIC developed and began using Microsoft Office Access to input cost data and case disposition information for each request. Microsoft Access provides the capability to generate reports that total the costs and disposition information as needed and to prepare our final annual report.

8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?

Due to DTIC's use of Microsoft Office Access in the past, we did not have any impediments to utilizing a system to prepare our input to the DoD Annual FOIA report. With the development this year of FOIRS, we again do not foresee any impediments to utilizing a system to prepare our input to the DoD Annual FOIA report.

## V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.

Yes, DTIC's backlog is decreasing. At the end of FY 2009, DTIC had 16 requests pending (15 of those requests were for information/records to be provided in a bibliographic format from our Research Summary (RS) database; the remaining request was not more than 20 days old as of September 30, 2009. At the time the requests were received, DTIC did not have a format to be able to produce and provide a bibliography for Research Summaries found during a search of the database. With the anticipation that we would continue to receive more FOIA requests for bibliographies from our RS database, we initiated development of a usable format that would be releasable to the general public. Development of the database format was completed, tested and approved in late November 2009. To date, 13 of the backlogged requests have been completed; the final three are currently being processed.

2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.

**N/A**

3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.

When necessary, additional personnel assist in processing FOIA requests in order to meet the response time requirements.

# Defense Threat Reduction Agency (DTRA)

**DEFENSE THREAT REDUCTION AGENCY**  
**CHIEF FOIA OFFICER REPORT**  
**February 19, 2010**

**Steps Taken to Apply the Presumption of Openness** The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

**1. Describe below the steps your agency has taken to ensure that that presumption is being applied to all decisions involving the FOIA. This section should include a discussion of the range of steps taken by your agency to apply this presumption, from publicizing the President's FOIA Memorandum and Attorney General's FOIA Guidelines and providing training on them, to implementing the presumption in response to FOIA requests and administrative appeals, with examples or statistics illustrating your agency's action in making discretionary releases of records or partial releases when full disclosure is not possible.**

- a. Training specifically targeted to FOIA Points of Contact (POC) throughout the Agency is provided as a group and one-on-one.
- b. The Defense Threat Reduction Agency (DTRA) FOIA Office presented the new Administration's guidelines to the Agency's senior leadership in February 2009 and emphasized that FOIA is the responsibility of all DTRA employees.
- c. All requested information is reviewed by Subject Matter Experts (SME's) and/or submitters for their recommendations regarding the releasability of the information. Their recommendations are reviewed by FOIA analysts to determine if the withholding of information is justified. All redacted documents are then reviewed by the Agency's General Counsel's office prior to being released by the FOIA Officer.
- d. Met with (or provided guidance to) key FOIA POCs within the Agency to explain the policy with respect to discretionary releases. The Agency released 12% more records in full in 2009 than in 2008.

**2. Report whether your agency shows an increase in the number of requests where records have been released in full or where records have been released in part when compared with those numbers in the previous year's Annual FOIA Report.**

| 2008                     | 2009                      |
|--------------------------|---------------------------|
| 7 Released in Full (11%) | 24 Released in Full (23%) |
| 56 Denied in Part (89%)  | 79 Denied in Part (76%)   |

**II. Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests**

As the Attorney General emphasized in his FOIA Guidelines, “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.” Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. This section should include a discussion of

**how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.**

- a. Every Agency Enterprise/Directorate/Office (about 24) has assigned a FOIA POC who ensures that SME's search for requested documents and review located documents for releasability. POCs expedite the processing of requests by ensuring timelines assigned by the FOIA Office are met.
- b. Submitters are provided deadlines when contract information is sent to them for review. While missed deadlines are followed up and submitters are advised that if no response is received, the documents will be processed without their input.
- c. FOIAxpress software is used to log, track, and process FOIA requests and to redact information from documents. A high-speed scanner is utilized to input the documents into FOIAxpress. The FOIA Office has an individual assigned specifically as IT support for the software and scanner who is responsive to the needs of the Office.

### **III. Steps Taken To Increase Proactive Disclosures**

**Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received. Describe here the steps your agency has taken to increase the amount of material that is available on your agency website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines.**

- a. Contracts comprise the majority of our complex FOIA requests. We have started processing contracts that we anticipate will be requested multiple times in advance of any requests.
- b. Aside from contracts, there is no set pattern on the types of information that may be requested from DTRA. We continue the processing of requests withdrawn by requesters, but may be of public interest; however there have been very few requests for the same information.
- c. Information is made available on the DTRA.mil website which reduces the need for FOIA requests. One example is the Nuclear Test Personnel Review (NTPR) program managed by DTRA. Individuals may request information regarding participation in the program through either a FOIA request or a direct request to the NTPR program manager. Information posted on the DTRA website regarding the program has reduced the number of FOIA requests received and reduced the cost to individuals. DTRA.mil website is all new as of Feb 1, 2010, to include expansion of the Reading Room and other information made available to the public.

### **IV. Steps Taken To Greater Utilize Technology**

**A key component of the President's Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. For this section of the Chief FOIA Officer Report, please answer the following questions:**

- 1.) Does your agency currently receive requests electronically? Yes**
- 2.) If not, what are the current impediments to your agency establishing a mechanism to**

receive requests electronically? N/A

3.) Does your agency track requests electronically? Yes

4.) If not, what are the current impediments to your agency utilizing a system to track requests electronically. N/A

5.) Does your agency use technology to process requests. Yes

6.) If not, what are the current impediments to your agency utilizing technology to process requests. N/A

7.) Does your agency utilize technology to prepare you agency Annual FOIA Report. Yes

8.) If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report. N/A

#### **V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs is an ongoing agency effort. Both the President and the Attorney General emphasized the importance of improving timeliness in responding to requests. Section XII of your Annual FOIA Report includes figures that show your agency's backlog of pending requests and administrative appeals for the previous fiscal year and for this current fiscal year. Your Chief FOIA Officer Report should address the following elements.

**1. If you have a backlog, report here whether your backlog is decreasing. That reduction should be measured both in terms of the numbers of backlogged requests and administrative appeals that remain pending at the end of the fiscal year, and in terms of the age of those requests and appeals.**

a. The Agency's backlog has increased compared to FY08, however there is little variance. DTRA's caseload increased significantly from 2008 (158) to 2009 (230) which in part accounts for the increase in backlog. We also experienced a malfunction in our case tracking system on Sep 28, 2009 and were unable to log out cases from that date through Sep 30. The backlog is normally comprised of contracts which have a lengthy processing time, or documents referred to another agency for review due to their equities in the documents.

b. The Agency receives few appeals and none are pending at the present time.

**2. If there has not been a reduction in the backlog describe why that has occurred and what steps your agency is taking to bring about a reduction.**

| Total Backlog | 2008            | 2009                  |
|---------------|-----------------|-----------------------|
|               | 10 (all closed) | 15 (2 are still open) |

We have a minimal backlog as noted above. We keep requesters informed of where their requests are in the process and when responses are voluminous, we send out interim responses as

documents become available. We are providing more in-depth training to FOIA POCs and SMEs related to FOIA exemptions, types of information that can be withheld and what information we will automatically withhold (such as lists of names, classified, b4) so that they do not spend time reviewing/highlighting information that will be withheld. No appeal has been received due to not providing a response determination within the statutory time limits.

**3. Describe the steps your agency is taking to improve timeliness in responding to requests and to administrative appeals.**

The FOIA office recently restructured its staffing process to improve efficiency and the timeliness of responses. We are proactive and work closely with requesters, SME's and submitters. We communicate with requesters to verify requests are perfected and we process the wanted information. We educate SMEs as to what can and cannot be released in accordance with the FOIA. We strive to communicate with submitters in order to come to an agreement regarding information that is justifiably withholdable, without mailing documents back and forth or employing the judicial system. All discussions with submitters are backed up via e-mail. We have had only 3 appeals during this period. All were responded to in the required time. (1 appeal was for denial of No Records showing we had implanted a device in the individual, 1 appeal was withdrawn after we received it, and one was for non receipt of all documents which proved to be incorrect)

# National Geospatial- Intelligence Agency (NGA)

# National Geospatial-Intelligence Agency FOIA Report

## I. Steps Taken to Apply the Presumption of Openness

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA: **NGA receives a significant number of requests for records that are properly and currently classified. As a result, NGA is limited in what it can release to FOIA requesters. With respect to discretionary releases however, NGA makes every effort to favor disclosure absent a reason to believe there would be harm in release. Every partial or full denial decision is reviewed by at least two separate, independent offices within NGA.**
2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report: **The number of requests that were released in full or in part in FY 2009 more than doubled compared to those processed in FY 2008.**

## II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests: **One process improvement made by NGA this year is the addition of an administrative person to the FOIA staff. This person has the primary duty of initiating all the initial tracking, agency-wide searches and requester acknowledgements. FOIA requests coming into NGA via mail, fax and e-mail are monitored daily. The addition of one person with the primary responsibility for initial processing ensures that every request is both acknowledged and tasked within the agency to search for responsive documents in a timely manner.**

## III. Steps Taken to Increase Proactive Disclosures. **NGA has a robust Public Affairs Office which proactively disseminates unclassified information about the agency.**

## IV. Steps Taken to Greater Utilize Technology

1. Does your Component currently receive requests electronically? **Yes**
2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically? **N/A**
3. Does your Component track requests electronically? **Yes**
4. If not, what are the current impediments to your Component utilizing a system to track requests electronically? **N/A**
5. Does your Component use technology to process requests? **No**
6. If not, what are the current impediments to your Component utilizing a system to process requests? **NGA is in the process of obtaining computer software that is capable of tracking and processing FOIA requests, to include the ability to perform electronic redactions. This new software will enable NGA to streamline its FOIA processing and thereby reduce the time required to respond to requests.**

7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report? **No**
8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report? **NGA is in the process of obtaining computer software that is capable of tracking and processing FOIA requests, to include the ability to perform electronic redactions. NGA anticipates that this software will also be capable of creating all necessary reports to accurately track all required metrics for completion of the DoD Annual report.**

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals. **NGA does currently have a considerable backlog of pending FOIA requests. The number of pending requests as of the end of FY 2009 was slightly higher than at the end of FY 2008. NGA experienced an unexpected personnel loss that exacerbated the problem. However, between the end of FY 2009 and present, there has been a reduction of approximately 20% in the pending backlog. NGA has added an administrative person to assist with processing the requests. Reduction of the backlog has also become a priority with the NGA's Director.**
2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it. **N/A**
3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals. **NGA has increased the number of personnel dedicated to the FOIA program. Also, as noted above, NGA is in the process of obtaining software that will greatly assist in the processing, tracking and reporting of FOIA requests. The additional personnel and technological resources will greatly improve the processing abilities for the NGA FOIA program. This will enable NGA to not only decrease the average processing time for FOIA requests but will also allow NGA to continue decreasing the backlog of pending requests.**

# National Guard Bureau (NGB)

**National Guard Bureau Chief FOIA Officer Report**  
**February, 2010**

**I. Steps Taken to Apply the Presumption of Openness**

**1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.**

We require the record owner to articulate the harm that would come from the release of their documents in their initial disclosure determination and we have incorporated the presumption of openness discussion into our FOIA training for action officers

**2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.**

This is the first year we have had a FOIA queue for requests for records from the National Guard Bureau separately from the Air National Guard (ANG) and Army National Guard (ARNG) so we do not have numbers to compare to previous years.

**II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests**

All requests are logged in to our FOIA queue generally within 3 days of receipt and acknowledgement letters are sent to requestors by e-mail whenever possible within 10 days of receipt. We provide all requestors with their case number, our phone number, and e-mail address so they may check on the status of their requests.

We have a FOIA queue that we track all open requests and categorize them based on Simple and Complex. For all requests that cannot be processed within 20 working days, we set processing goals based on the volume of requests received and concentrate on working the oldest cases to respond on a first in/first out basis.

**III. Steps Taken to Increase Proactive Disclosures**

The National Guard has a number of ways the public can obtain information on the activities of the National Guard Bureau and proactive disclosures of information are made using these resources, including the following:

- On Guard Newsletter (Quarterly): (<http://www.ng.mil/features/onguard-mag/default.aspx>)
- National Guard News (daily): <http://www.ng.mil/news/default.aspx>
- National Guard RSS Feeds: <http://www.ng.mil/news/rss/default.aspx>

- National Guard News Widget: <http://www.ng.mil/news/widgets/widgets.aspx>
- National Guard Foundations Magazine:  
<http://www.ng.mil/news/Foundations/default.aspx>
- National Guard State Publications:  
[http://www.ng.mil/news/State\\_Publications/default.aspx](http://www.ng.mil/news/State_Publications/default.aspx)
- Media Inquiry References: <http://www.ng.mil/media/default.aspx>
- Social Media (Twitter, Facebook, Flickr, You Tube, Blogs):  
[http://www.ng.mil/features/Social\\_Media/default.aspx](http://www.ng.mil/features/Social_Media/default.aspx) (for links to all of these)

#### **IV. Steps Taken to Greater Utilize Technology**

##### **1. Does your Component currently receive requests electronically?**

Yes, we receive requests electronically through a dedicated e-mail account ([FOIA@ng.army.mil](mailto:FOIA@ng.army.mil)) and may implement a web submission form in the future.

##### **2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically? N/A**

##### **3. Does your Component track requests electronically?**

Yes, we track requests using an Excel spreadsheet for daily tracking purposes to show the overall queue position of each request worked by our office (combined NGB, ANG, and ARNG). We log all NGB requests into the DoD Freedom of Information Reporting System (FOIRS) upon closure for calculating on end of year FOIA reports. The ANG and ARNG requests are also logged into those respective agencies electronic FOIA tracking systems.

##### **4. If not, what are the current impediments to your Component utilizing a system to track requests electronically? N/A**

##### **5. Does your Component use technology to process requests?**

Yes, we currently use electronic redaction software to remove exempt material from requests prior to release. We provide final responses to FOIA requestors by e-mail whenever possible to expedite the service to them and allow them to quickly receive the records they have requested.

We also use e-mail to receive responsive records from the offices that hold records and for coordination prior to records releases. If the files are too large for e-mail, we have an internal restricted portal we use to allow the record owner to upload their records and review them prior to final release.

In addition, we release records electronically to requestors through use of CD-ROM when possible in .pdf format.

- 6. If not, what are the current impediments to your Component utilizing a system to process requests?** N/A
- 7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report?**

Yes, we log all request information into the DoD FOIRS which calculates end of year annual FOIA report information.

- 8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?** N/A

**V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

- 1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.**

As of the end of January, 2010 we have 6 requests in backlog which is an increase in the end of FY09. While this is an increase in requests we have had a 50% loss of staffing since the end of FY09 and are working to fill the vacant position and increase staffing to handle the workload.

- 2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.**

To reduce the backlog, we have requested additional manpower to double the existing staff, which handles the NGB FOIA requests, all ANG requests, and all ARNG FOIA denials, as well as the Privacy program for the entire NG. We have also trained and begun to use part time support to review FOIA requests and perform redactions. We have purchased additional licenses for FOIA redaction software programs.

- 3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.**

The NGB FOIA queue was established in March, 2009 as there was a need to distinguish FOIA requests for NGB records from the ANG and ARNG requests with the passing of H.R. 4986-2, Section 1812 which established the NGB as a joint activity of DoD. As this is the first year of reporting, we do not have previous annual FOIA reports for comparison in improvement; however, we are continuously gauging how we can improve timeliness in response to requests.

We are corresponding with requestors by e-mail whenever possible to expedite providing final responses to their requests, to include final record releases. We have implemented training to Action Officers to explain the FOIA program ahead of getting requests which helps expedite internal processing when requests are received. We will be able to provide a more accurate assessment on other areas for improvement after this full of year of operating this FOIA requestor service center.

# National Reconnaissance Office (NRO)

NATIONAL RECONNAISSANCE OFFICE  
Report to DoD/AG - 2010

I. Steps Taken to Apply the Presumption of Openness

1. **Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.**

The Obama Administration's policy and philosophy documents have been distributed to all National Reconnaissance Office (NRO) staff involved in the access and release programs by the NRO's General Counsel to show support at the highest levels of the organization.

FOIA Staff continuously provides guidance to subject matter experts tasked to review with openness in mind, citing a presumption of openness while balancing the necessity for the protection of national security equities.

NRO policy has always been and continues to be in favor of release whenever possible.

2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

Number of full grants doubled from 2008 to 2009. Partial releases increased by nearly 10%. Since the total number of requests doubled during this time, the number of full grants demonstrates a long-standing consistency in the NRO's openness posture.

II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests

The NRO revised its Internet website. Use of the electronic form for submission has increased the number of perfected requests received and decreased the need for tolling in an effort to elicit information needed from submitters in order to begin processing.

NRO is in the process of converting to a more robust tracking and processing database. Completion of the conversion is expected for FY2011.

Access and Release Program Management is actively pursuing additional resources, both electronic and staffing.

III. Steps Taken to Increase Proactive Disclosures

NRO access and release programs work together to determine collections of records that can be proactively declassified and made available to the public. NRO added 3 collections to its website during 2009. Programs must be approved for declassification by the Director of the NRO with concurrence from the Director of National Intelligence.

The Information Access and Release Team (IART), which is responsible for administering the FOIA/PA program, is also responsible for Declassification Programs. The NRO, because of the programmatic nature of our business, focuses proactive releases on collections of information that will be meaningful to the public.

The Office of Corporate Communications maintains the NRO's internet website and is an integral part of the access and release programs. The IART works closely with them in our efforts to make information about the organization available to the public within the confines of the requirement to protect national security equities.

#### IV. Steps Taken to Greater Utilize Technology

1. Does your Component currently receive requests electronically? YES
2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically?
3. Does your Component track requests electronically? YES
4. If not, what are the current impediments to your Component utilizing a system to track requests electronically?
5. Does your Component use technology to process requests? YES
6. If not, what are the current impediments to your Component utilizing a system to process requests?
7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report? NO
8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?

Current software application does not support all necessary elements of the Annual Report. NRO is in the process of converting to a more robust tracking and processing database. Completion of the conversion is expected for FY2011. The new software will accommodate all elements of the Annual Report.

#### V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.

Backlog is not decreasing.

2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.

Substantial increase in number of requests received, no corresponding increase in resources available.

Major portion of backlog is due to backlogs at other government agencies that are consulting on our cases.

Access and Release Program Management is actively pursuing additional resources, both electronic and staffing.

IART is actively pursuing the use of SIPRNET and Inteldocs as a means of expediting outside coordinations.

3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.

Access and Release Program Management is actively pursuing additional resources, both electronic and staffing.

IART is actively pursuing the use of SIPRNET and Inteldocs as a means of expediting outside coordinations.

# National Security Agency (NSA)

**National Security Agency**  
**Input for DoD Chief FOIA Office Report to the Attorney General**

**I. Steps Taken to Apply the Presumption of Openness**

1. Steps taken by your Component to ensure that the presumption of openness is applied to all decision involving the FOIA.

The NSA FOIA Office has historically applied the presumption of openness in our FOIA release decisions. During the Clinton administration, Attorney General Janet Reno's guidance on FOIA required a determination of harm before the application of a FOIA exemption. NSA has consistently used that standard for the application of FOIA exemptions, including during the Bush administration. The presumption of openness endorsed by President Obama affirmed NSA's approach to FOIA, while not significantly altering our process.

The NSA FOIA Office provided copies of the President's FOIA Memorandum and the Attorney General's FOIA Guidelines to all of its internal Agency points of contacts. In addition, information regarding those memoranda was incorporated into our internal FOIA training programs and review processes.

NSA strongly supports openness in government and informed citizenry. We are active in the declassification arena, as well, to achieve the spirit of the initiative.

2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.

For Fiscal Year (FY) 2008, NSA denied in full (with exemptions) 55% of total requests, granted in part 21%, and granted in full 2% of total requests. For FY 2009, NSA denied in full (with exemptions) 42% of total requests, granted in part 24%, and granted in full 4% of total requests. There is no way to determine if these changes are related to applying the presumption of openness, or whether they are a result of the type of information (and amount of classified information) being reviewed for release.

**II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests**

NSA has established a robust FOIA Access and Customer Outreach team that serves as the first point of access for all FOIA requesters. The team is easily accessible by telephone and a dedicated email account to be able to quickly respond to inquiries from the public about our FOIA processes. The telephone number and the email address of the FOIA Office are easily located on the FOIA web page on the NSA.gov website. We routinely call and communicate with our requesters to help them focus their requests in a manner that results in fewer search costs and shorter processing time, as well as ensuring that we understand what they are seeking so that we can ensure that we are providing an appropriate response. The Agency has received notes

of appreciation from requesters for NSA's forward leaning, customer-focused approach.

In addition, the NSA FOIA Office has instituted periodic FOIA training for the various Agency organizations that is focused specifically on preparing accurate cost estimates, as well as performing adequate searches in a timely manner. This training has increased the visibility of the FOIA Office and emphasized the criticality of being responsive to the FOIA.

### III. Steps Taken to Increase Proactive Disclosures

NSA has undertaken a robust program to post important information, not previously available or easily accessible to the public, on its official unclassified website, NSA.gov. This includes information on the mission of NSA, as well as our current Strategic Plan and information about our leadership. In the Information Assurance realm, NSA is now posting manuals and guidance relating to securing networks. NSA is also posting significant findings by our Research and Development Directorate regarding security policies relating to the LINUX operating system.

NSA additionally has an active Declassification Program that strives to be responsive to historians and academics, as well as the general public. NSA has taken an active role in identifying key events with SIGINT successes that have not previously been made public. Efforts are underway to conduct proactive disclosures of these events to the greatest extent possible in light of national security needs.

### IV. Steps Taken to Greater Utilize Technology

#### 1. Does your Component currently receive requests electronically?

NSA has received requests via a web form on the NSA.gov FOIA internet website for at least 10 years. We also continue to receive requests via facsimile and U.S. postal service.

#### 2. If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically? N/A

#### 3. Does your Component track requests electronically?

NSA has an electronic tracking and document processing system (the Automated Document management System (ADMS)). All incoming FOIA requests (as well as other types of requests for processing documents for public release) are given a unique case number as soon as they are received and put into the system. The ADMS allows us to track milestones for processing deadlines, as well as track estimated and actual processing fees.

#### 4. If not, what are the current impediments to your Component utilizing a system to track requests electronically? N/A

5. Does your Component use technology to process requests?

NSA processes all of its FOIA requests (as well as other types of requests for documents for public release) in the Automated Document Management System (ADMS). The case files are maintained electronically so that all of the FOIA staff can access them readily and provide status updates to requesters. Correspondence is created electronically in the case file, and the documents are processed in the ADMS in order to create a sanitized, unclassified version for public release.

6. If not, what are the current impediments to your Component utilizing a system to process requests? N/A
7. Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report?

NSA submits queries against the FOIA case tracking data in the ADMS in order to prepare our input to the DoD Annual FOIA Report. Not all of our data is captured in the same manner as that which is requested by DoD, so there is some manual manipulation; however, it is mainly automated.

8. If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?

There may be an impediment to NSA being able to provide electronic input to DoD for inclusion in its Annual Report due to the fact that we use different automated systems. In addition, our data is maintained in a classified database that cannot be readily transferred into an unclassified database. We are prepared to work with the software developers to determine whether we can develop some interface in the future, if possible.

V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

1. If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.

The NSA FOIA backlog increased from 333 pending cases at the conclusion of FY 2008 to 357 pending cases at the conclusion of FY 2009. The NSA FOIA appeals backlog increased from 8 pending appeals at the conclusion of FY 2008 to 23 pending appeals at the conclusion of FY 2009.

2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.

The number of backlogged pending FOIA requests and pending FOIA appeals increased due to a combination of factors.

- a) The Agency has been receiving increasing numbers of requests and appeals on topics of current public interest, as opposed to topics of historical interest. Such requests require increased diligence and consultation with highly specialized and technical NSA organizations due to the risk that sensitive national security information concerning current or ongoing operations could be released. As a result, the NSA FOIA staff and the NSA FOIA appeals staff expend a great deal of time and effort in the review process, balancing the Agency's obligations under the FOIA with the Agency's duty to protect classified and sensitive information.
- b) The Agency received a substantial increase in the number of FOIA appeals filed during FY 2009, while simultaneously experiencing the turnover of critical staff.
- c) The personnel in the FOIA Office responsible for reviewing and sanitizing documents for release in response to first party requests (Privacy Act (PA) requests processed under both the FOIA and the PA), because of their expertise in handling sensitive privacy information, were also tasked with sanitizing personal documents for other activities within the Agency to ensure protection of classified and sensitive information (EEO cases, Due Process packages for various activities, etc.). The increase in the pending FOIA backlog can be directly attributed to reduction in man-hours available for PA/FOIA case review.
- d) The FOIA Office experienced the turnover of two critical staff members from the Privacy Information Review team, as well as the retirement of two Senior Reviewers from the FOIA Document Review and Analysis Team.
- e) Many of the oldest of the pending FOIA requests at NSA were requests that were complex cases received prior to the time that the FOIA Office began working with requesters to focus or narrow requests. Some of the requests were extremely voluminous and complex and required numerous external consultations with other government agencies. In many cases, those requests have had several interim responses to provide requesters with documents as they became available. In some cases, NSA is still working on the external consultations and cannot provide a final response until those consultations are resolved.

3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.

The NSA FOIA Office and the NSA FOIA Appeal staff are committed to responding to FOIA requests and appeals in a timely manner.

The NSA FOIA Appeals staff has taken a number of steps intended to bring about a reduction in NSA's backlog of pending FOIA appeals. The Agency has replaced its critical FOIA appeal personnel and is presently in the process of

training them. The NSA FOIA Appeal staff has also supplemented its staff with temporary personnel experienced in NSA's operations. Finally, they have dedicated additional personnel with the specific task of reducing the Agency's backlog of pending FOIA appeals.

The NSA FOIA Office has taken a number of steps intended to bring about a reduction in NSA's backlog of pending FOIA (and PA/FOIA) cases. We have hired two individuals to the Privacy Information Review team that have experience in current Agency operations, as well as previous declassification experience, and we have augmented the team with temporary personnel experienced in NSA operations. In addition, we have hired two additional individuals to the FOIA Document Review and Analysis team who have numerous years of experience in NSA's operations. All of these individuals are currently receiving extensive training.

The NSA FOIA Office has also instituted a new practice of more closely tracking cases with external consultations and submitting quarterly inquiries to other government agencies to ensure that consultations are addressed. We are also working more closely with requesters when we find that consultations may significantly delay a response so that we can negotiate a response that may exclude other-agency information in order to respond more quickly.

# TRICARE Management Activity (TMA)

TRICARE Management Activity  
FOIA Officer Report  
January 2010

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**I. Steps Taken to Apply the Presumption of Openness**

**1. Steps taken by your Component to ensure that the presumption of openness is applied to all decisions involving the FOIA.**

- Any discretionary release of records or partial release, when full disclosure is not possible, is coordinated through our Office of General Counsel to ensure presumption of openness is practiced. Provide requester with data layouts and work closely with requester to identify data elements that will be withheld to remain HIPAA Compliant and information on how the data will be delivered. We have no discretionary authority on the release of data elements protected under the HIPAA but we want to validate the data provided by TMA will meet the needs of requesters.
- FOIA is included in Contractor Training meetings to explain contractor obligations under the Freedom of Information Act (FOIA) and provide an overview of applicable guidance. Contractors must comply with DoD Issuances and TMA guidance implementing FOIA, including:
  - 2007 FOIA amendments (Openness Promotes Effectiveness in our National [OPEN] Government Act of 2007, Pub. L. 110-175, which clarified FOIA applicability to contractors
  - DoD Directive 5400.07, “DoD Freedom of Information Act Program,” January 2, 2008
  - DoD Regulation 5400.7-R, “DoD Freedom of Information Act Program”, September 1998 (amended by Change 1, 4/11/06)
  - TRICARE Operations Manual (TOM), Ch. 1, Sec. 5, Paragraph 2.0

**2. Any increase in the number of requests where records are released in full or in part compared with the previous year's Annual FOIA Report.**

- There were no increases during FY2009

**II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests**

- a. Installed a new FOIA tracking system (FOIAxpress)
- b. Identified a FOIA Points-of-Contact (POCs) for each Directorate
- c. Provided training to the FOIA POCs
- d. Provide monthly new employee training class on FOIA

TRICARE Management Activity  
FOIA Officer Report  
January 2010

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e. Assign FOIA action through the TMA Document Management System

**III. Steps Taken to Increase Proactive Disclosures**

- Update the FOIA Reading Room every month with newly released TMA FOIA records
- Provide Managed Care Contractors the opportunity to participate in the decision making process, in accordance with Executive Order 12600, to determine areas of their contract exempt from release, if any, and to *cite the exemption(s) invoked* pursuant to 5 USC 552(b)(4). Once the submitter notification process is complete, the contract is published on the TMA FOIA Reading Room and can be accessed by the public

**IV. Steps Taken to Greater Utilize Technology**

1. **Does your Component currently receive requests electronically?** Yes
2. **If not, what are the current impediments to your Component establishing a mechanism to receive requests electronically?** n/a
3. **Does your Component track requests electronically?** Yes
4. **If not, what are the current impediments to your Component utilizing a system to track requests electronically?** n/a
5. **Does your Component use technology to process requests?** Yes
6. **If not, what are the current impediments to your Component utilizing a system to process requests?** n/a
7. **Does your agency utilize technology to prepare your Component's input to the DoD Annual FOIA report?** Yes
8. **If not, what are the current impediments to your Component utilizing a system to prepare your Component's input to the DoD Annual FOIA report?** n/a

**V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

1. **If your Component has a backlog, indicate whether your backlog is decreasing. Measure this reduction in terms of numbers of backlogged requests and appeals at the end of Fiscal Year 2009 and in terms of the age of the requests and appeals.**
  - The number of backlogs (11) remained the same as FY 2009

TRICARE Management Activity  
FOIA Officer Report  
January 2010

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**2. If your backlog is not decreasing, describe why and steps your Component is taking to reduce it.**

Steps taken to reduce FOIA backlog:

- Use technology to electronically process FOIA request by scanning requests, tasking FOIA action electronically, electronically redacting documents, following up on outstanding FOIA action by e-mail and telephone
- Identified a FOIA Points of Contact (POCs) for each Directorate
- Provided training to the FOIA POCs
- Provide FOIA training new employees
- Track FOIA action through LiveLink
- Publish frequently requested FOIA records on the TMA Reading Room FOIA web site

**3. Describe the steps your Component is taking to improve timeliness in responding to requests and administrative appeals.**

- Dedicating more resources to processing FOIA Requests

# Combatant Commands

## COMBINED COMBATANT COMMAND REPORT

### Combatant Commands and their Acronyms

|                           |            |                                 |            |
|---------------------------|------------|---------------------------------|------------|
| U.S. Africa Command       | USAFRICOM  | U.S. Pacific Command            | USPACOM    |
| U.S. European Command     | USEUCOM    | U.S. Southern Command           | USSOUTHCOM |
| U.S. Central Command      | USCENTCOM  | U.S. Special Operations Command | USSOCOM    |
| U.S. Joint Forces Command | USJFCOM    | U.S. Strategic Command          | USSTRATCOM |
| U.S. Northern Command     | USNORTHCOM | U.S. Transportation Command     | USTRANSCOM |

### I. Steps Taken to Apply the Presumption of Openness.

1. The primary means by which the Combatant Commands ensure that the presumption of openness is applied to all decisions involving the FOIA is training. All training now includes an emphasis on the presumption of openness. For example USEUCOM provides semi-FOIA training to its Directorates, USPACOM provides FOIA training to all newly assigned personnel, USSOUTHCOM conducted FOIA training for all of its security managers stationed at the military groups in the embassies within its area of operations, and USAFRICOM provides FOIA training to all command personnel. Additionally, USCENTCOM and USNORTHCOM briefed command leadership on President Obama's FIOA and transparency policy memoranda immediately after their issuance. All of the commands have further implemented procedures that identify information that could qualify for discretionary release within its FOIA processing procedures. Finally, in the past year the Defense Freedom of Information Policy Office (DFOIPO) visited several of the Combatant Commands and during the visits emphasized to the command leadership that the Department of Defense is fully embracing the presumption of openness, and it is expected that their commands will, too.
2. It was not anticipated that adopting a presumption of openness would significantly change the FOIA releases in the Combatant Commands, since so much of their information is classified. However, the *Department of Defense FOIA Annual Report for Fiscal Year 2009* shows that some Combatant Commands did experience increases in the numbers of full and partial releases over fiscal year 2008. The Combatant Commands that had increases in the numbers of FOIA requests where records were released in

full are USCENTCOM and USSTRATCOM. The Combatant Commands that had increases in the numbers of FOIA requests where records were released part are USCENTCOM, USPACOM, USSOCOM, USSOUTHCOM, and USTRANSCOM.<sup>1</sup>

- II. Steps Taken to Ensure that Your Component has an Effective System for Responding to Requests. All of the Combatant Commands have made improvements to their processing procure so that they have more effective systems for responding to requests. Primarily, most of the Combatant Commands have either recently hired new FOIA personnel, assigned additional personnel to the FOIA office on a temporary basis, or plan to hire new FOIA personnel in the future. The newest Combatant Command, USAFRICOM, from the very beginning established a FOIA website with an email address for requester use and a unique voicemail capability for FOIA requesters. USCENTCOM has impediments to its FOIA process that no other government agency has, since it must coordinate FOIA processing within two combat areas of operation, Iraq and Afghanistan. Therefore, to overcome these difficulties, USCENTCOM instituted several initiatives to include an improved electronic tasking system and responding to requesters using priority services or electronically. USJFCOM reorganized its FOIA organizational structure to infuse consistency and accountability into the FOIA process. USNORTHCOM has created a process whereby each document search and review step in the process is outlined so that even some of the most complex cases may be able to be closed within 20 days.
- III. Steps Taken to Increase Proactive Disclosures. The Combatant Commands have taken a variety of approaches to proactively disclose more of their information. On an increasing basis, they are using social media content such as twitter, facebook, flickr, YouTube, and RSS feeds to proactively disclose vital information
  - The “AFRICOM Dialogue”<sup>2</sup> blog on the USAFRICOM website. With this blog, both USAFRICOM staff and the public have the opportunity to comment on a wide variety of issues that USAFRICOM is dealing with.
  - USSOUTHCOM has a blog called “In the Americas,” and recently General Ken Keen, US Army, Commander of USSOUTHCOM, blogged about the

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<sup>1</sup> Because USAFRICOM was not fully operational until the beginning of Fiscal Year 2009, it is not possible to provide comparison data for that Combatant Command.

<sup>2</sup> <http://www.africom.mil/>

earthquake in Haiti and the USSOUTHCOM efforts to lead the humanitarian relief effort for the Department of Defense.<sup>3</sup>

- The USEUCOM blog, “EUCOMversations,” discusses issues relevant to the European community.<sup>4</sup> The Combatant Commands also are increasing their use of social media.
- The USCENTCOM website can be viewed in the Arabic, Russian, and Farsi languages in addition to English.

As for other steps that the Combatant Commands are taking to increase proactive disclosures, USCENTCOM is planning on creating an operational planning team to work on proactively declassify and clear for public release Operation Iraqi Freedom and Operation Enduring Freedom records. When it creates its histories (which are classified), USPACOM is now creating unclassified versions of the same histories.

#### **IV. Steps Taken to Greater Utilize Technology.**

1. All Combatant Commands receive requests electronically.
2. Because of the previous statement, the Combatant Commands have no impediments to receiving requests electronically.
3. All Combatant Commands are able to track requests electronically to a varying degree. Some Combatant Commands have advanced COTS FOIA products to track their requests, and some Combatant Commands utilize an already established internal command tasking/tracking system.
4. Because of the previous statement, the Combatant Commands have no impediments to utilizing a system to track requests electronically.
5. All of the Combatant Commands Does use technology in some way to process requests. This technology varies from command to command, and the degree to which technology is used is large dependent upon the number of FOIA requests used each year. All Combatant Commands use some form of electronic redaction software for the processing of FOIA responsive documents. Additionally, some Combatant Commands purchased advanced COTS FOIA for the purpose of document management. Additionally, the Combatant Commands are increasing their use of IntelDocs, which is a document sharing system created by the Office of the Director of National Intelligence that provides the capability to share

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<sup>3</sup> <http://www.southcom.mil/AppsSC/Blog.php>

<sup>4</sup> <http://www.eucom.mil/english/blog.asp>

and transfer large volumes of documents easily over the unclassified and classified internets. The capability is being used to more securely and quickly transfer documents between the Combatants Commands and their geographically separated components.

6. Because of the previous statement, the Combatant Commands have no impediments to utilizing a system to process requests.
7. DFOIPO is currently working on an effort to automate the component inputs to the DoD Annual FOIA Report. Even though this system, called the Freedom of Information Reporting Systems, is still undergoing some development the Department of Defense was able to utilize it extensively for Combatant Command reporting this past fiscal year.
8. Because of the previous statement, the Combatant Commands have no impediments to utilizing a system to prepare their inputs to the DoD Annual FOIA report.

**V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests.**

1. The following chart details the backlogged requests for Fiscal Year 2008 and Fiscal Year 2009.<sup>5</sup> Because the Combatant Command do not process FOIA appeals, the appeal backlogs are not considered here.

| Combatant Command | FY 2008 Backlog | FY 2009 Backlog | Change | Percentage Change |
|-------------------|-----------------|-----------------|--------|-------------------|
| CENTCOM           | 218             | 198             | - 20   | + 9%              |
| EUCOM             | 53              | 59              | + 6    | + 11%             |
| JFCOM             | 48              | 67              | + 19   | + 40%             |
| NORTHCOM          | 0               | 4               | + 4    | N/A               |
| PACOM             | 37              | 35              | - 2    | - 5%              |
| SOCOM             | 240             | 179             | - 61   | - 25%             |
| SOUTHCOM          | 97              | 81              | - 16   | - 16%             |
| STRATCOM          | 1               | 1               | 0      | 0                 |
| TRANSCOM          | 54              | 58              | + 4    | + 7%              |
| Total             | 748             | 682             | - 66   | - 9%              |

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<sup>5</sup> Because USAFRICOM did not process FOIA requests until the beginning of Fiscal Year 2009, it is not addressed in this section.

2. As the chart above shows, the Combatant Commands reduced their FOIA backlog significantly by a total of 66 requests, or 9%. This reduction was due primarily to the efforts of two Combatant Command, USCENTCOM and USSOCOM. Three Combatant Commands had an increase in their backlogs<sup>6</sup>, and the following are explanations for these increases and steps being taken to reduce their backlogs:
  - USEUCOM – This command experienced a relatively small increase in its backlog, primarily due increased FOIA litigation and the assignment of a new FOIA officer. USEUCOM is taking several proactive steps in reducing its backlog, to include using temporary overhires to handle much of the administrative workload. The command is looking into the possibility of hiring an additional permanent position.
  - USJFCOM – Because of the increase in its FOIA backlog, on October 1, 2009, the Commander, USJFCOM, appointed the USJFCOM Judge Advocate, the Commander's senior legal advisor, as the Command's FOIA Coordinator. He also directed a top-to-bottom review of the USJFCOM FOIA program. Following the review the program was centralized, timeliness and the presumption of openness were reemphasized, and the USJFCOM instruction describing the program was updated and reissued. Additionally, personnel assigned to process FOIA requests no longer have additional duties that interfere with the performance of their FOIA duties.
  - USTRANSCOM – The primary cause for the increase in the USTRANSCOM FOIA backlog was due to the command obtaining the authority to issue its own contracts. Previously, the Department of the Air Force was the contracting authority for USTRANSCOM. Because of this change, there was a significant increase in the number of FOIA requests for contracts at USTRANSCOM. The processing of these types of FOIA requests can be burdensome, and because of the requirements of Executive Order 12600 their processing normally takes more than 20 business days. USTRANSCOM is in the process of hiring additional personnel to handle this increase in its workload.
3. The steps taken by the Combatant Commands to improve timeliness in responding to FOIA requests largely are the same as the steps taken ensure an effective system for responding to requests as described in Section II above, with training again being the primary emphasis. Following are some examples of additional initiatives to improve timeliness. The USCENTCOM FOIA offices submits weekly status reports to the

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<sup>6</sup> Because the increase in its FOIA backlog (from 0 to 4 cases) is considered insignificant, this section will not address the backlog at USNORTHCOM.

command leadership which depict the total number of open cases, the number of requests and average days late for each component or the command (those components tasked to search and/or review FOIA documents), and an indication of where delays exist in the USCENTCOM FOIA process. The USJFCOM FOIA Coordinator likewise briefs the Commander and Chief of Staff on the status of open FOIA requests on a periodic basis. USPSCOM is using Reserve military personnel called to active duty to assist in FOIA duties, and this has resulted in an average of 15% annual reduction in its backlog since 2005.